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Draft

**Reservations of Water for the Environment
and
Assurances for Existing Legal Sources
Consistent with
Federal and State Law**

1 **i. Preamble**

2
3 This paper has been written as a starting point for public input in identifying key policy,
4 technical and process issues associated with the implementation of the Comprehensive
5 Everglades Restoration Program (CERP). The paper is the result of many hours of debate and
6 discussion among federal and state partners including the Department of the Interior, the U.S.
7 Army Corps of Engineers, U. S. Fish and Wildlife Service, Florida Fish and Wildlife
8 Conservation Commission, the Florida Department of Environmental Protection and the South
9 Florida Water Management District.

10
11 The focus of the paper is to provide a proposed methodology for identifying and protecting
12 existing legal sources, and identifying and reserving water for natural systems consistent with
13 state and federal law. Many outstanding issues will need to be resolved by affected stakeholders
14 in order to realize the successful implementation of the CERP program. Building a consensus
15 through a public process is important to this success and can be expected to result in
16 modifications to the proposed methodologies or assumptions contained herein. It is also
17 anticipated that some of the outstanding issues will require further technical input by our state
18 and federal partners in order to properly frame the implications of changing certain assumptions,
19 particularly in regard to the pre-CERP baseline and existing legal source identification. The
20 ultimate goal should be that all interests are treated equitably, that the natural resources are
21 restored and protected, and that existing and future water supply needs are provided for – all
22 consistent with the assumptions and expectations of the CERP program and relevant state and
23 federal laws.

24
25 The paper is organized into six major sections which discuss: 1) the purpose of the document; 2)
26 relevant legal directives; 3) conceptual relationships of demands, resource protection tools and
27 CERP; 4) identification and protection of existing legal sources; 5) concepts for protecting water
28 made available by CERP; and 6) relationships of water reservations and operating manuals.

29
30 Four appendices are also attached which provide more detailed information, including: 1)
31 preliminary definition of terms; 2) Water Resource Development Act of 2000; 3) preliminary
32 pre-CERP baseline assumptions; and 4) Guidance for Project Delivery Teams for Identifying the
33 Amount of Water to be Reserved for the Natural System in the Project Implementation Report
34 Process.

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1 **I. Purpose**

2
3 This paper has been written as a starting point for public input in identifying key policy,
4 technical and process issues associated with the implementation of the Comprehensive
5 Everglades Restoration Program (CERP).

6
7 The purpose of this paper is to outline a process and methodology for identifying and protecting
8 water for the natural system and human uses which will be made available through
9 implementation of the Comprehensive Everglades Restoration Plan (CERP) consistent with state
10 and federal law. This paper also identifies technical and policy issues regarding assurances for
11 existing legal sources, reservations of water for the natural system, and identification of regional
12 water availability for consumptive uses and proposes guidance for Project Implementation
13 Report (PIR) development.

14
15 It is anticipated that some of these issues will require further technical input by the state and
16 federal partners in order to properly frame the implications of changing certain assumptions,
17 particularly concerning the pre-CERP baseline and existing legal source identification.

18
19 A glossary of key terms and preliminary definitions has been included in Appendix A.

20
21 **II. Summary of Relevant Legal Directives**

22
23 **A. Federal Water Resource Development Act of 2000**

24
25 Congress enacted the Water Resources Development Act of 2000, Section 601 (WRDA 2000) to
26 approve implementation of the CERP "as a framework for modifications and operational changes
27 to the C&SF Project to restore, preserve, and protect the South Florida ecosystem while
28 providing for other water-related needs of the region, including water supply and flood
29 protection." (Sec. 601(b)). Several provisions in WRDA 2000 are set forth to ensure that CERP
30 "be implemented to ensure the protection of water quality in, the reduction of the loss of fresh
31 water from, the improvement of the environment of the South Florida Ecosystem and to achieve
32 and maintain the benefits to the natural system and human environment described in the
33 CERP... " (Sec. 601(h)(1), WRDA 2000). These are primarily contained in Section 601(h)
34 entitled "Assurance of Project Benefits", which is attached as Appendix B. Some of the most
35 relevant portions regarding quantification and protection of water supplies from CERP and
36 existing legal sources are provided below as a short summary; however, none of these provisions
37 should be read out of context of entire WRDA 2000 Act.

38
39 Section 601(h)(2) requires the execution of a binding agreement between the President and the
40 Governor of Florida to ensure that, through State regulation or other means, "the water made
41 available by each project in the Plan shall not be permitted for consumptive use or otherwise
42 made unavailable by the State until such time as sufficient reservations of water for the
43 restoration of the natural system are made under State law in accordance with the project
44 implementation report for that project and consistent with the Plan." This Agreement was
45 executed on January 9, 2002.

1 Section 601(h)(4) of the WRDA 2000 describes project specific assurances required for CERP
2 projects. For Project Implementation Reports (PIR), the requirements include:
3

4 **Sec. 601(h)(4)(A)-** A Project Implementation Report shall:

- 5 (IV) identify the appropriate quantity, timing, and distribution of water dedicated and
6 managed for the natural system
- 7 (V) identify the amount of water to be reserved or allocated for the natural system
8 necessary to implement, under State law, sub clauses (IV) and (VI);
- 9 (VI) comply with applicable water quality standards and applicable water quality
10 permitting requirements under subsection (b)(2)(A)(ii).

11
12 For Project Cooperation Agreements, the requirements include:
13

14 **Sec. 601(h)(4)(B)-**

- 15 (i) The Secretary and the non-Federal sponsor shall execute project cooperation
16 agreements in accordance with section 10 of the Plan.
- 17 (ii) CONDITION- The Secretary shall not execute a project cooperation agreement until
18 any reservation or allocation of water for the natural system identified in the Project
19 Implementation Report is executed under State law.

20
21 For Operating Manuals, the requirements include:
22

23 **Sec. 601(h)(4)(C) -** The Secretary and the non-Federal sponsor shall develop and issue,
24 for each project or group of projects, an operating manual that is consistent with the water
25 reservation or allocation for the natural system described in the Project Implementation
26 Report and the project cooperation agreement for the project or group of projects.
27

28 Section 601(h)(5) provides a savings clause that applies when implementing CERP. It states:
29

30 (A) NO ELIMINATION OR TRANSFER—Until a new source of water supply
31 of comparable quantity and quality as that available on the date of enactment of
32 this Act is available to replace the water to be lost as a result of implementation of
33 the Plan, the Secretary and the non-Federal sponsor shall not eliminate or transfer
34 the existing legal source of water including those for—
35

- 36 (i) an agricultural or urban water supply;
 - 37 (ii) allocation or entitlement to the Seminole Indian Tribe of Florida under
38 section 7 of the Seminole Indian Land Claims Settlement Act of 1987
39 (25 U.S.C. 1772e);
 - 40 (iii) the Miccosukee Tribe of Indians of Florida;
 - 41 (iv) water supply for Everglades National Park; or
 - 42 (v) water supply for fish and wildlife.
- 43
44
45
46

1 **B. State Laws Regarding Implementation of CERP**
2

3 In 1999, 2000, and 2001, the Florida Legislature enacted a series of laws into Chapter 373
4 defining the SFWMD's and the DEP's roles in the implementation of CERP, including Sections
5 373.026(8), 373.1501, 373.1502, and 373.470, F.S. With regard to assuring project benefits,
6 similar to WRDA 2000, Section 373.470(b) requires that the comprehensive plan be used as a
7 guide and framework to ensure that the project components will be implemented to achieve the
8 purposes of the "Federal Water Resources Development Act of 1996" S. 373.470(3)(b)2.,
9 F.S.

10
11 Prior to any project component being submitted to Congress for authorization or receipt of an
12 appropriation of state funds, the DEP must approve each project component, pursuant to Section
13 373.026(8), F.S., upon a finding that the SFWMD has complied with the requirements set forth
14 in Section 373.1501(5), F.S. Specifically with regard to assurances to natural systems, existing
15 legal users and flood protection, section 373.1501(5) (a) and (d) require the SFWMD, as the
16 C&SF local sponsor, to:

- 17
18 (a) Analyze and evaluate all needs to be met in a comprehensive manner and consider all
19 applicable water resource issues, including water supply, water quality, flood protection,
20 threatened and endangered species, and other natural system and habitat needs.
21
22 (d) Consistent with this chapter, the purposes for the Restudy provided in the Water Resources
23 Development Act of 1996, and other applicable federal law, provide reasonable assurances
24 that the quantity of water available to existing legal users shall not be diminished by
25 implementation of project components so as to adversely impact existing legal users, that
26 existing levels of service for flood protection will not be diminished outside the geographic
27 area of the project component, and that water management practices will continue to adapt to
28 meet the needs of the restored natural environment.
29

30 Prior to executing a project cooperation agreement, the SFWMD must develop a project
31 implementation report with the Corps to address the requirements in Section 373.1501, and to
32 obtain approval under Section 373.026 from the DEP. In addition, Section 373.470(3) requires
33 that each PIR identify the increase in water supplies resulting from a project component, and that
34 the such additional water supplies be allocated or reserved by the SFWMD under Chapter 373.
35

36 **C. Water Resource Protection Tools Under State Law**
37

38 The overall purpose of Chapter 373 is to ensure the sustainability of water resources of the state
39 (section 373.016, F.S.). To carry out this responsibility, Chapter 373 provides the District with
40 several tools with varying levels of resource protection standards. WRDA 2000, as well as
41 Chapter 373 CERP implementation statutes, require that state law be used to protect water
42 supplies for natural systems and humans, including both existing supplies and additional supplies
43 made available by CERP. The following short summary of tools to protect water supplies for
44 these purposes is provided below. These tools have various levels of resource protection
45 standards. Water resource protection standards in Chapter 373, F.S. must be applied together as
46 a whole to meet this goal.

1 **1. Reservations**
2

3 The reservations of water for the natural system will be made by the South Florida Water
4 Management District pursuant to state law. The SFWMD will accomplish the reservations
5 through the rule making authority of the Governing Board. The state law on water reservations,
6 in Section 373.223(4), F.S., provides:
7

8 The governing board or the department, by regulation, may reserve from use by
9 permit applicants, water in such locations and quantities, and for such seasons of
10 the year, as in its judgment may be required for the protection of fish and wildlife
11 or the public health and safety. Such reservations shall be subject to periodic
12 review and revision in the light of changed conditions. However, all presently
13 existing legal uses of water shall be protected so long as such use is not contrary
14 to the public interest.
15

16 When water is reserved, the district cannot allocate it to consumptive use permittees. Water
17 reserved for the natural system is for the "protection of fish and wildlife". However, water can
18 also be reserved for public health and safety.
19

20 Reservations are subject to periodic review based on changed conditions, such as the changes
21 that will occur in the Central and Southern Florida Project, as CERP projects become
22 operational. This provides flexibility to account for changes in implementation strategies and
23 contingency plans during the life of the project.
24

25 In Florida, existing legal uses of water have a level of certainty associated with their water
26 permitted rights. In regard to the relationship between permitted water rights and reservations,
27 existing legal uses are protected so long as they are not contrary to the public interest (Section
28 373.223(4), F.S.).
29

30 **2. Consumptive Use Permitting**
31

32 Consumptive use permits are issued by the water management districts pursuant to part II of
33 Chapter 373, Florida Statutes. Domestic uses of water are exempt from permitting requirements
34 but are protected by Florida law. In order to obtain a consumptive use permit, the permit
35 applicant must provide reasonable assurances that the use is "reasonable-beneficial", will not
36 interfere with any presently existing legal use of water, and is consistent with the public interest,
37 pursuant to Section 373.223, F.S. The SFWMD implements this three-prong test pursuant to
38 rules adopted in Chapter 40E-2, Florida Administrative Code. Permits are conditioned to assure
39 that uses are consistent with the overall objectives of Chapter 373 and are not harmful to the
40 water resources of the area (i.e., s. 373.219, F.S.).
41

42 Under Florida law, a consumptive use permit provides the permittee with the right to use water
43 consistent with the conditions of the permit for the duration of the permit. These permitted users
44 and domestic water users, which are exempt from requirements to obtain a permit, all have and
45 have the legal status of an "existing legal use". Prior to permit expiration, the permittee must
46 obtain a renewal of the permit in order to continue the water use. Existing legal uses of water

1 have a legal level of certainty that their permit will not be revoked or modified, or otherwise
2 impacted by the actions of third parties, consistent with state law. Under state law, existing legal
3 uses are protected unless they are determined to be detrimental to the water resources, in which
4 case they can be revoked or modified under Chapter 373, F.S. State law also provides specific
5 standards for reviewing pending consumptive use permit applications for a quantity of water that
6 is insufficient for meeting the reasonable-beneficial demands, or are otherwise competing for the
7 same limited source, pursuant to Section 373.233, F.S.

8 9 **3. Minimum Flows and Levels**

10
11 The District is responsible for the implementation of statutory provisions in Section 373.042,
12 F.S., which requires that the District establish Minimum Flows and Levels (MFLs) for
13 watercourses and aquifers. Generally stated, the MFLs for a given watercourse or aquifer shall be
14 the limit at which further withdrawals would be significantly harmful to the water resources of
15 the area. Minimum flows and levels for Lake Okeechobee, the Everglades and the Northern
16 Biscayne aquifer were adopted in 2000 in Chapter 40E-8, F.A.C. along with prevention and
17 recovery strategies consisting primarily of CERP components; specific consumptive use
18 permitting criteria for MFLs were adopted in Chapter 40E-2; and water shortage criteria were
19 adopted in Chapter 40E-21 and 40E-22. The District is also proceeding with efforts to develop
20 MFLs for associated areas, such as the Loxahatchee and St. Lucie estuaries by the end of 2002,
21 Florida Bay by the end of 2003, and Biscayne Bay and the Southern Biscayne aquifer by the end
22 of 2004.

23 24 **4. Water Shortage Plan**

25
26 Pursuant to Section 373.246, F.S., water shortage declarations are designed to prevent serious
27 harm from occurring to water resources. Serious harm, the ultimate harm to the water resources
28 that was contemplated under Chapter 373, F.S., is interpreted as long-term, irreversible, or
29 permanent impacts to the water resource, pursuant to District rule. Declaration of water
30 shortages by the Governing Board can thus be used as a tool to prevent serious harm, as provided
31 in Chapter 40E-21, F.A.C.

32
33 By basing the CUP criteria on a specific and uniform level of certainty, it is possible to estimate
34 how often water may be restricted by a water shortage declaration based on historical rainfall
35 records. Water shortage restrictions may be imposed due to climactic events, continued decline
36 in water levels, and/or saltwater intrusion and provide a means to curtail human use in the face of
37 decreasing supplies. Each water level trigger corresponds to a particular level of water shortage
38 restriction. These restrictions act to apportion the available resource among uses, including the
39 environment, in a manner that shares the adversity resulting from a drought event. Adoption of
40 resource protection criteria as water shortage trigger indicators also notifies users of the risks of
41 damage and potential for loss due to water shortages.

42 43 **5. Regional Water Supply Planning Requirements**

44
45 Regional water supply plans, including the *Lower East Coast Regional Water Supply Plan*
46 accepted by the Governing Board in May 2000, provide strategies that assure that adequate water

1 is available to meet future urban and agricultural, and natural system demands within the
2 planning area through the year 2020. Section 373.0361, F.S., requires that each regional water
3 supply plan be based on at least a 20-year planning period and include water supply and water
4 resource development components, a funding strategy for water resource development projects,
5 MFLs established within the planning region, an MFL recovery and prevention strategy, and
6 technical data and information supporting the plan. The *Lower East Coast Regional Water*
7 *Supply Plan* includes the CERP components planned within the South Florida ecosystem.

8
9 The water supply development component must include the quantification of the water supply
10 needs for all existing and projected future uses within the planning horizon, with a level-of-
11 certainty planning goal for meeting needs during a one in ten year drought event. It must also
12 include a list of water source options for water supply development, including traditional and
13 alternative sources, from which local government, government owned and privately owned
14 utilities, self-suppliers, and others may choose. For each option, the amount of water available,
15 the estimated cost of the project, and sources of funding must be identified.

16 17 18 **III. Conceptual Relationship between Water Supply and Demands for** 19 **Humans and Natural Systems, Resource Protection Tools and CERP**

20
21 Prior to human intervention, the water needs of the environment were a function of the natural
22 drainage patterns and hydrologic conditions. Hydropatterns were a function of natural drainage
23 features and rainfall distributions typically exhibiting higher wet season flows and levels that
24 decreased naturally as rainfall decreased during dry conditions. Human intervention changed
25 these natural drainage patterns through a reduction in the spatial extent of the natural areas, the
26 construction of levees, canals, and structures, and the introduction of human demands. These
27 changes included a reduction in groundwater levels near the coast for purposes of flood
28 protection that have resulted in changes to the spatial and temporal distribution of flows and
29 levels to the environment, and altered the timing and volume of water which was available under
30 pre-development natural conditions.

31
32 Human demands increase as a function of rainfall deficits as illustrated in Figure 1. One of the
33 goals for water supply planning is to achieve a level-of-certainty to meet human demands up to
34 and including a one in ten year drought condition. Under these conditions, the user must
35 demonstrate that a proposed rule is reasonable and beneficial, is in the public interest and will
36 not interfere with other existing uses. Consumptive use permitting criteria are intended to
37 prevent harm to the water resources up to and including the one in ten year drought frequency
38 ("no harm standard").

39
40 Drought conditions may cause even further reductions in groundwater levels and surface storage
41 which are vital for agricultural and landscape irrigation, potable use, the prevention of saltwater
42 intrusion, and the natural system. Human demands continue to increase when rainfall deficits
43 exceed a one in ten year drought event. Water shortage restrictions (40E-21) are imposed on
44 consumptive uses to moderate these increased demands in order to prevent "serious harm" to the
45 water resources.

1 Minimum flows and levels are established to identify the point at which “significant harm” to the
2 water resources or ecology is caused by further withdrawals (Chapter 373.042 F.S.). In order to
3 reduce the occurrence of significant harm to the natural system under drought conditions, the
4 Governing Board has established that a Phase 3 (Extreme) water shortage restriction will be
5 applied to human uses in order to moderate their demands. The relationships between water
6 reservations, minimum flows and levels, consumptive use permits and water shortage restrictions
7 are conceptualized in Figure 2.

8
9 WRDA 2000 requires a quantification of water to be made available for the natural system as
10 each PIR is developed. Furthermore, pursuant to the WRDA 2000 "Assurance of Project
11 Benefits Agreement" between the President and Governor, reservations will be made under state
12 law prior to a Project Cooperation Agreement (PCA) being executed. State law (373.470 F.S.)
13 requires that the PIR identify the increase in water to the natural system resulting from the
14 project component and that the additional water be allocated or reserved under Chapter 373.
15 Most, but not all CERP projects will make additional water available for the environment
16 through time as illustrated in Figure 1. As each project is completed, environmental performance
17 will progressively improve until the environmental response meets or exceeds that originally
18 envisioned in the *July 1999 Feasibility Report* as approved by Congress. The project specific
19 and system-wide performance relative to water supply, flood protection, and environmental
20 requirements will be evaluated as each PIR is developed and documented. Improvements to
21 environmental performance measures will continue through time in order to address potential
22 short falls in the Plan.

23 24 25 **IV. Key Concepts in Identifying the Pre-CERP Baseline and Existing Legal** 26 **Sources of Water**

27
28 The following section presents basic precepts and guiding principles in the identification of the
29 pre-CERP baseline and a proposed technical approach for defining and protecting existing legal
30 sources. Section IV.A describes general principles and associated issues in order to frame these
31 topics for public discussion and resolution. Resolution of these matters will be essential for the
32 identification of assumptions for the pre-CERP baseline condition model simulation and
33 ultimately the identification of existing legal sources. Appendix C includes an abbreviated
34 version of the proposed guiding principles associated issues and preliminary pre-CERP baseline
35 assumptions for quick reference.

36
37 The public process, which will include workshops and continued interaction with the Water
38 Resources Advisory Committee (WRAC), the South Florida Ecosystem Restoration Task Force
39 and Working Group, for resolving these issues will also include presentation of regional
40 modeling results of various scenarios that frame the ramifications of the outstanding issues being
41 discussed. Through the CERP RECOVER process, an on-going interagency team has been set
42 up to help identify the base case assumptions. This team has held several meetings, and has
43 begun to identify and discuss outstanding issues including those presented below. It is proposed
44 that the CERP RECOVER team discussions be integrated with efforts of the public discussion
45 process referenced above.

1 Sections IV.B through IV.E present a draft "straw-man" scenario for the identification of the pre-
2 CERP baseline, a proposed method for quantifying existing legal sources and guidance for
3 protecting existing legal sources through the development of PIRs. These sections will continue
4 to be refined as the issues presented in IV.A are resolved.

6 **A. Guiding Principles for Defining the Pre-CERP Baseline and Existing Legal Sources**

8 **1. Background**

10 The overarching objective of the CERP under both state and federal law is restoration and
11 preservation of the South Florida ecosystem while providing for other water-related needs,
12 including water supply and flood protection.

14 Implementation of CERP must be consistent with both state and federal laws. In general,
15 Federal law requires quantification and protection of existing legal sources of water and
16 quantification and protection of water made available for natural systems by CERP through
17 water reservation under state law. In general state law requires quantification of water made
18 available by CERP projects, protection of existing legal users of water during CERP
19 implementation, and reservation or allocation of water made available by CERP projects,
20 pursuant to state law. State law also provides additional tools for protection of human and
21 natural system water supplies through reservations of water for the protection of fish and
22 wildlife, consumptive use permitting, water shortage management, minimum flows and levels,
23 and regional water supply planning.

25 As a result of these legal requirements and as a first step in CERP implementation, the proposed
26 process will: 1) present guiding principles and issues associated with defining the pre-CERP
27 baseline; 2) define and quantify existing legal sources; and 3) define a procedure for identifying
28 impacts to existing legal sources during PIR development.

30 **2. Guiding Principles and Issues for the pre-CERP Baseline**

32 In order to meet these legal requirements under federal and state law, it is necessary to identify a
33 baseline that reflects the timing, quantity, and distribution, and quality of water from various
34 sources under pre-CERP conditions within the South Florida ecosystem. This quantification is
35 proposed to be accomplished through a "pre-CERP baseline condition" regional modeling
36 simulation. However, the assumptions in the model first need to be defined. There are several
37 different views regarding the meaning and interpretation of law and associated policies upon
38 which the modeling assumptions should be based.

40 As a starting point to identify appropriate assumptions for the pre-CERP baseline condition, the
41 following guiding principles are proposed along with issues that may surround these principles.
42 The purpose of presenting these principles and issues is to solicit public discussion which will
43 lead ultimately to resolution of outstanding issues. The process for resolving these issues will
44 also include presentation of the results of various regional model scenarios that frame the issues
45 being discussed and an evaluation of the effects of choosing one assumption over another.

1 General System-Wide/Regional Conditions:
2

- 3 • As a general principle, conditions will be based on the assumptions in the 1999 Restudy and
4 the 1995 base case of the *Lower East Coast Regional Water Supply Plan* updated to
5 December 2000 conditions. Deviations or exceptions to this general principle will be
6 explicitly defined (See Appendix C).
7

8 Issue – The assumptions used in the 1999 Restudy and the 1995 base of the LECRWSP
9 assumed 1995 conditions, these must be updated to reflect conditions as of December 2000.
10

11 Hydrologic Conditions:
12

- 13 • As a general principle, rainfall and evapotranspiration will be determined based on a period
14 of record for the regional hydrologic conditions from 1965 through 2000.
15

16 Issue – Which, of several available methods, of estimating supplemental irrigation
17 requirements should be used?
18

19 Physical Conditions/Structures:
20

- 21 • As a general principle, the structures and projects that were in existence as of December 2000
22 will be accounted for.
23

24 Issue – There were certain projects that were not constructed and operational in December
25 2000 but were federally authorized as of that date (e.g., C-111 and Modified Water
26 Deliveries). In addition, certain state mandated projects were under construction but not
27 completed and others that will be constructed in the near future (e.g., STA 1 East and STA
28 3/4). Should these projects be included in the pre-CERP baseline? If so, they will influence
29 operations, demands, and possibly existing legal sources.
30

31 Operational Conditions:
32

- 33 • As a general principle, operations in place as of December 2000 will be assumed.
34

35 Issue – Certain operations were considered to be “experimental”, or were under legal review or
36 development as of December 2000. Examples are the Everglades National Park (ENP) sparrow
37 issues vs. Interim Structure and Operation Plan (ISOP) vs. Interim Operation Plan (IOP) vs.
38 Combined Structure and Operation Plan (CSOP), S-9 litigation, ENP experimental water
39 deliveries vs. 1983 delivery authorizations and South Miami-Dade flood protection issues. How
40 should these conflicting legal and operational authorities be handled in the pre-CERP baseline?
41

42 Supply/Source Conditions:
43

- 44 • As a general principle, primary regional sources of available water include: 1) local rainfall,
45 surface storage and runoff; 2) Biscayne aquifer and other groundwater; 3) Water
46 Conservation Area storage and seepage; and 4) Lake Okeechobee.

- 1 • As a general principle, sources should be identified for large basins including, urban and
2 agricultural service areas, and regional environmental areas.
3
- 4 • As a general principle, basins may have primary, secondary and tertiary supply sources as a
5 function of hydrologic conditions and available storage.
6

7 Demand Conditions:
8

- 9 • As a general principle, urban and agricultural demands will be based on that amount of water
10 depended upon to meet reasonable needs in urban and agricultural service areas.
11

12 Issue – Demands for urban consumptive uses could be assumed to be that amount actually
13 withdrawn as of December 2000, or that amount which was permitted as of December 2000.
14 Demands associated with agricultural consumptive use could be assumed to be based on the
15 actual crop acreage that existed as of December 2000, or the acreage that was permitted to be
16 irrigated as of that date.
17

18 Issue - The method of calculating evapotranspiration is important for estimating
19 supplemental irrigation demand requirements for agricultural crops. Historically, this was
20 done through the consumptive use permitting process by using a method known as Blaney-
21 Criddle. Recent data suggests that this method over-allocates water necessary for the crop
22 type. A newer method known as Agricultural Field Scale Irrigation Requirements
23 Simulation Model (AFSIRS) was used in the modeling for the LECRWSP and Restudy, and
24 is judged to be a more accurate demand estimate method.
25

26 Issue Many District rules are currently under rule development as a result of
27 recommendations of the LECRWSP and as a result of the 2000 water shortage. There is a
28 need to determine the process for addressing changes to rules outside of CERP such as
29 supply-side management and water shortage rules.

- 30 • As a general principle, non-consumptive uses in urban and agricultural service areas will be
31 accounted for as demands and will include deliveries for prevention of saltwater intrusion,
32 wetland protection, aquifer recharge and other resource protection purposes.
33
- 34 • As a general principle, fish and wildlife demands will be based on historic operational
35 deliveries under federal regulation schedules and other historic deliveries for beneficial uses
36 by fish and wildlife within regional environmental areas, including the water conservation
37 areas.
38
39

1 **B. Definition of Existing Legal Sources**

2
3 WRDA 2000 includes assurance language that provides for protection of existing legal sources
4 as of the date of enactment, December 2000. These existing legal source considerations include
5 agricultural or urban water supply, allocation or entitlement to the Seminole tribe, the
6 Miccosukee Tribe, water supply for Everglades National Park and water supply for fish and
7 wildlife.

8
9 Existing legal sources are proposed to be defined as:

10
11 The quantity of water available from all locations of which there was a dependence
12 as of December 2000, consistent with Federal and State law for: 1) urban and
13 agricultural existing legal uses, including those uses exempt from permitting
14 requirements; 2) non-consumptive uses, including regional surface water deliveries
15 and groundwater seepage for resource protection; 3) meeting the entitlement rights
16 of the Seminole Tribe of Florida; 4) the Miccosukee Tribe; 5) federal and state
17 requirements for Everglades National Park; and 6) protection of fish and wildlife.

18
19 Existing legal sources are proposed to be defined under the full range of available rainfall
20 conditions to determine the quantity of water available under the operational, demand, and
21 structural conditions that existed as of December 2000. The CERP design considered a much
22 longer hydrologic period of record - 1965 through 1995. This 31-year period of record which
23 included wet, average and dry rainfall periods was used to estimate the performance of various
24 CERP components relative to water supply, ecosystem restoration and flood protection. The
25 South Florida Water Management Model (SFWMM) is currently being updated to expand the
26 hydrologic (rainfall) record to 36 years from 1965 through December 2000 and this is proposed
27 to be the tool and rainfall period of record used in the determination of existing legal sources
28 consistent with the CERP performance analysis.

29
30 The primary sources of available water include: 1) local rainfall, storage and runoff; 2)
31 groundwater from the Biscayne aquifer; 3) surface water discharge and groundwater seepage
32 from the Water Conservation Areas; and 4) surface water from Lake Okeechobee. One or
33 several of these sources have been depended upon by fish and wildlife, urban, Tribal or
34 agricultural uses, based on wet, average or dry rainfall conditions.

35
36 **C. Spatial Identification of Existing Legal Source User Basins**

37
38 It is proposed to consider spatially separating the major regions of the C&SF project in order, to
39 properly determine each entity's dependence on existing legal sources. Proposed existing legal
40 source user basins are shown on Figure 3 and are described in the following table:

1 **Spatial Identification of Existing Legal Source User Basins**

2

LEGAL SOURCE USER BASINS	SOURCE DEPENDENCE			
	WCAs	Lake Okeechobee	Local Basin Rainfall	Surficial Aquifer
Agriculture				
a. Lake Okee. North Rim Area		X	X	
b. EAA	X	X	X	
c. Calooshatchee		X	X	
d. St. Lucie		X	X	
Seminole Tribe				
a. Brighton Reservation		X	X	
b. Big Cypress Reservation		X	X	
Miccosukee Tribe				
a. Miccosukee Reservation	X		X	
Environmental				
a. Big Cypress Nat'l. Preserve			X	
b. WCAs 1,2,3	X	X	X	
c. ENP (incl. Fl. Bay)	WCA3	X	X	
d. Holey Land		X	X	
e. Rotenberger			X	
Urban				
a. Service Area 1	WCA 1	X	X	X
b. Service Area 2	WCA 2B	X	X	X
c. Service Area 3	WCA 3B	X	X	X
d. Northern Palm Beach County			X	X

3

4

5 **D. A Method for Quantifying Existing Legal Sources through the Pre-CERP Baseline**

6

7 Under the pre-CERP baseline condition (December 2000) agriculture, urban and environmental
8 systems receive a certain quantity, timing and distribution of water from various sources
9 including tributary basin runoff and direct rainfall. Direct rainfall can be considered a natural
10 input, however, tributary inflow has typically been modified by manmade drainage features such
11 as levees, canals, pump stations, and culverts. The hydropatterns of the existing environmental
12 systems are reflective of the operational policies currently in place for the region as defined by
13 regulation schedules, conveyance limitations, water control structure hydraulics for flood
14 protection, water supply and environmental deliveries. These operational policies are also

1 reflective of existing consumptive use demands and delivery requirements from the regional
2 system under the pre-CERP baseline condition.

3
4 A December 2000 pre-CERP baseline should be simulated for the regional system to estimate the
5 amount of water available to the environment and other uses assuming historical rainfall
6 conditions of 1965 through 2000, along with the baseline condition operational protocols,
7 consumptive use withdrawals and water shortage policies. The performance of the system as of
8 December 2000 can then be documented under wet, average and dry rainfall conditions. This
9 performance will be documented through volume probability curves and used for performance
10 evaluation for future PIR development and also as the basis for defining existing legal sources.

11
12 Although the pre-CERP baseline will document the performance of the system under all rainfall
13 conditions, the proposal is to exclude regulatory discharges from the volume probability curves
14 used to define existing legal sources as these discharges have not been historically depended
15 upon by consumptive uses or the natural system. Additionally, these regulatory discharges are
16 the main focus for capture and redistribution as part of the CERP program.

17
18 A water budget should be prepared for each of the existing legal source basins identified above
19 and a set of volume probability curves developed which is indicative of the historical dependence
20 of each existing legal source basin on local basin rainfall/storage and quantities of surface and
21 groundwater from external locations (excluding regulatory discharges into the basin). Volume
22 probability curves should be derived for the full 36-year period of historical rainfall conditions
23 and also on an average annual, wet season and dry season basis to document seasonal
24 distribution issues. Figure 4 depicts a conceptual volume probability curve.

25
26 The December 2000 pre-CERP baseline is proposed to include structural, operational, and
27 demand assumptions as of that date for determination of existing legal sources consistent with
28 state and federal law. Appendix C depicts the preliminary model assumptions for the pre-CERP
29 baseline.

30
31 **E. Proposed Procedure for Identifying Impacts to Existing Legal Sources Through PIR**
32 **Development**

33
34 Importantly, existing legal sources are not to be eliminated or transferred by the design of a
35 CERP project unless the project makes up for (replaces) the water lost from the project.
36 Specifically WRDA 2000 states that "until a new source of water supply of comparable quantity
37 and quality as that available on December 2000 is available to replace the water to be lost as a
38 result of implementation of the Plan, the Secretary and the non-Federal sponsor shall not
39 eliminate or transfer existing legal source of water."

40
41 Some CERP projects will provide additional storage of storm water currently lost to tide, while
42 others projects will reduce losses from a basin such as through seepage control. Both types of
43 projects may result in an elimination or transfer of water however, the water quality implications
44 of these types of projects may be quite different. While additional storm water storage may have
45 large volume benefits, the water quality may be less than desirable dependent on the ultimate
46 use. Conversely, seepage control may have not deliver additional water but will retain more

1 rainfall in a user basin with fewer potential water quality issues, especially for environmental
2 areas.

3
4 In order to evaluate a proposed CERP project's potential impact on an existing legal source user
5 basin, the SFWMM should be used to determine the regional effects of the proposed design on
6 existing legal sources. A volume probability curve for each existing legal source user basin
7 should be generated based on the design of the proposed CERP component prior to finalization
8 of the PIR. The proposed PIR volume probability curve should then be compared to the existing
9 legal source users volume probability curves (December 2000) and a determination made as to
10 whether there has been an elimination or transfer of the existing legal source for any user basin.

11
12 If no transfer or elimination of existing legal source water has occurred and the performance of
13 the PIR design is acceptable for both human and natural systems, then the PIR is finalized.
14 However, if a transfer or elimination of sources is indicated, and either the project has not met its
15 expected performance or does not make up for the quantity and quality of water transferred or
16 eliminated, then the design should not be acceptable and further iterations of the design must
17 occur prior to the PIR being finalized.

18
19 If the existing legal source has not been eliminated or transferred by the final design of the
20 proposed CERP project, then the PIR should: 1) contain all the necessary documentation
21 supporting the conclusion; and 2) affirm that the existing source water is not eliminated or
22 transferred by the project.

23
24 If the existing legal source has been eliminated or transferred, by the final design of the proposed
25 CERP project, then the PIR should: 1) document the volume and location of the elimination or
26 transfer; 2) identify the new or replacement source; 3) document how the project, as designed,
27 makes up for the volume eliminated or transferred; 4) document that the new or replacement
28 source is not affecting any other existing legal source user basin; 5) provide a predicative water
29 quality analysis which estimates that the water quality of the new source water from the
30 proposed project will be comparable to that of the existing source water quality; 6) affirm that
31 the existing source volume will not be transferred or eliminated until final construction testing
32 and operations of the proposed facility; and 7) include revised existing legal source user basin
33 volume probability curves for the affected basins which would be used by subsequent PIRs.

34 35 36 **V. Key Concepts in Protecting Water for Natural Systems and Human Uses** 37 **Made Available by CERP**

38
39 This section discusses key concepts raised in protecting water for the natural system and human
40 uses anticipated to be made available by CERP. They include: 1) quantification of existing
41 regional water availability for water supply service areas, 2) establishing a pre-CERP reservation
42 of water for the environment, 3) quantification of additional water for natural systems and human
43 uses made available by CERP; and 4) protection of CERP water supplies for their intended
44 purposes. Appendix D identifies a specific technical process for implementing these key
45 concepts and provides guidance for the Project Delivery Teams for identifying the amount of
46 water to be reserved for the natural system in the PIR process.

1 **A. Quantification of Regional Water Availability for Water Supply Service Areas**
2

3 The concept of Regional Water Availability (RWA) was first introduced in, and made a
4 recommendation of, the *Lower East Coast Regional Water Supply Plan* (LECRWSP), which was
5 accepted by the Governing Board in May 2000. The purpose of RWA is to protect the
6 Everglades ecosystem from harm by providing an accounting of the available regional water to
7 the Lower East Coast supply service areas. The RWA will be used for defining existing and
8 future allocations in the consumptive use permitting process and the water available for non-
9 consumptive uses for resource protection. By quantifying the available regional water we will be
10 able to determine: 1) the quantity of water available to support existing and future demands for
11 consumptive users in the Lower East Coast region, 2) the quantity of water available for resource
12 protection (saltwater intrusion, navigation, recreation), 3) the quantity of water available to meet
13 environmental deliveries including wetland protection. Regional water availability is proposed
14 to be identified under a one in ten-drought year condition, which is the State's planning goal for
15 level of certainty for consumptive users under a no-harm standard.
16

17 Identification of regional water availability is necessary in order to protect the water resources of
18 the region while allowing for an optimization or more efficient use of the water for consumptive
19 uses which is currently available or which may become available through time. Since the major
20 environmental benefits of CERP projects are not likely to be realized for five to ten years, it is
21 necessary to identify the rate at which both consumptive uses and environmental enhancement
22 will increase through time as provided for in the LECRWSP and as anticipated under CERP.
23

24 Using the SFWMM, regional water availability will initially be identified from the pre-CERP
25 baseline used for the existing legal source identification (Section IV). A one in ten-drought year
26 will be selected from the period of record for the SFWMM that is representative of consumptive
27 use permitting criteria, consistent with the Chapter 373 F.S. 1-in 10 drought year level of service
28 goal.
29

30 An initial regional water availability rule is anticipated to be adopted after the pre-CERP baseline
31 and existing legal sources are identified. As certain CERP projects are constructed and
32 successfully operated, the RWA will be updated to identify the additional water made available
33 for consumptive uses by the projects. These updates are contemplated to be performed at a
34 minimum of every 5 years, or as CERP projects are constructed and must be consistent with
35 existing legal sources and any reservations for the natural system. Likewise, the RWA will be
36 updated to include other water use basins that may not currently be connected to the regional
37 system (e.g. northern Palm Beach County area through the implementation of the North Palm
38 Beach County CERP project).
39

40 Surface water and ground water deliveries to the Lower East Coast from the Everglades
41 ecosystem during a one in ten drought condition should be accounted for by source and
42 distributed to the appropriate water supply service area of that source. Water Conservation Area
43 1 deliveries should be distributed to Service Area 1, Water conservation Area 2a deliveries
44 should be distributed to Service Area 2 and Water Conservation Area 3 deliveries (or as
45 modified in the future) should be distributed to Service Area 3.
46

1 **B. Implementation of Regional Water Availability through Consumptive Use**
2 **Permitting Rules**

3
4 In order to assure that the volumes of regional water available for consumptive uses are not over
5 allocated or likewise redirected to environmental restoration, an accounting procedure needs to
6 be established in District rules and implemented through the permit application review process.
7 In concept, this process would include the following steps:

- 8
9 1. The amount of regional water (surface water and groundwater seepage as applicable)
10 available for both consumptive and non-consumptive uses within each service area would be
11 quantified as described above. These volumes would be codified in District CUP rules based
12 on one in ten dry hydrologic conditions, with considerations for system operations (such as
13 canal operational stages), CUP demands and land use within the service reflective of the
14 modeling assumptions from which the rules are adopted. Changes to the Regional Water
15 Availability volumes, as a result of deployment of regional water resource development
16 projects or even as a result of changes in the quantification methodology would require a
17 formal change to the rule.
18
19 2. During the review of each individual water use permit within the service area, the applicant
20 will be required to quantify the portion of the requested allocation that is regional water
21 verses other sources such as groundwater storage. This evaluation would be needed for
22 projects proposing uses that: a) withdraw surface water from primary or secondary canals
23 that are maintained by regional water deliveries, b) withdraw groundwater beneath a primary
24 or secondary canals that are maintained by regional water deliveries to a degree that cause
25 seepage of regional water into the well(s), or c) withdraw groundwater at a location and of a
26 magnitude to cause seepage of regional water beneath the levees along the Lower East Coast.
27 The analytic methods used by the applicant to quantify the amount of regional water
28 proposed for use by the project must be consistent with the methods and model used to define
29 the total regional water available to the service area in the rule. Consideration of the use of
30 an alternative source to the degree that they offset proposed demands on the regional system
31 will also be evaluated and encouraged, such as through longer permit duration.
32
33 3. A ledger will be kept which documents the portion of regional water available to a service
34 area that has been allocated to date. The amount of regional water proposed to be used by
35 the permit applicant will be added to the existing uses in the ledger and compared with the
36 total amount of regional water available to the service area defined by rule. The object is to
37 not exceed the volume in the rule.
38
39 4. It is recognized that the total amount of regional water defined in the rule must meet both
40 consumptive and non-consumptive uses in the service area. Non-consumptives uses of
41 regional water will be protected by the permit applicant meeting the remaining conditions of
42 permit issuance (such as salt-water intrusion prevention, isolated wetland protection, water
43 conservation requirements etc.). In addition, the ledger volumes will be checked regularly
44 (prior to the monthly Governing Board meetings or quarterly) using the same model and
45 assumptions that were used to generate the original service area volume in the rule to see that

1 the total of consumptive and non-consumptive demands for regional water have not been
2 exceeded.

3
4 It should be recognized that this concept is subject to refinement or revision during the actual
5 rule development/rule making process. The RWA rule should also define what actions are to be
6 taken in the event that demands of a basin equal or exceeds the volume of regional water
7 available to the basin by rule.

8 9 **C. Establishing a Pre-CERP Reservation of Water for the Environment**

10
11 The Lower East Coast Regional Water Supply Plan recommended establishment of a pre-CERP
12 reservation of water for the Everglades Protection Area. The intent of this pre-CERP reservation
13 is to modify the current regulation schedules for the Water Conservation Areas and Everglades
14 National Park to a rainfall driven schedule which improves the timing, flow and distribution of
15 water for the enhancement and protection of fish, wildlife and vegetation.

16
17 Existing legal source protection may constrain, to some extent, the full implementation of
18 rainfall driven schedules as originally envisioned in the LEC Plan. Based on the current
19 definition of existing legal sources, these proposed rainfall driven volumes of water must not
20 redistribute the volumes associated with other existing legal source user basins from which there
21 was a dependence on December 2000, but may redistribute volumes identified for the natural
22 systems.

23
24 The Natural Systems Model hydropattern estimates and CERP environmental performance
25 measures will be used as the basis for the modeling analysis through the SFWMM with
26 considerations for the existing storage, conveyance and existing legal source constraints of the
27 current system. Once the modeling scenarios confirm that existing legal sources are not affected
28 and the environmental performance of the modeling output is acceptable, the environmental
29 delivery assumptions will be converted to operational rules. The modeling performance measure
30 output and the operational rules will then be subject to federal review and approval prior to
31 implementation.

32
33 The performance of the rainfall driven schedules will be documented through volume probability
34 curves for the entire 36-year period of historical rainfall. After Federal approval, the portion of
35 the rainfall driven deliveries which are projected to protect fish and wildlife will be reserved
36 from use through state rule.

37
38 Reservations for future CERP projects will then build on this pre-CERP Reservation as described
39 in the following section.

40 41 **D. Quantification of Additional Water for Natural Systems and Human Uses Made** 42 **Available by CERP**

43
44 The natural system and human water supply benefits of a CERP project should be reflective of
45 the expected performance of a facility or a group of facilities. These benefits are typically

1 judged by the ability of a facility to improve, or meet a set of agreed upon performance measures
2 that reflect restoration, water supply and flood protection goals.

3
4 Since the projects that comprise CERP are designed to work together to achieve the system-wide
5 goals and purposes of CERP, in most cases, the identification of benefits should be done on a
6 system-wide basis in addition to a project by project basis. For example, projects such as the
7 Indian River Lagoon, North of Lake Storage, and the EAA storage projects, to name a few, have
8 significant effects outside of their location. It is important that the identification of project
9 benefits be made for the entire system, and not just for the project itself, or the area where it is
10 located. Additionally, for some projects, such as the seepage management projects, the amount
11 of water made available by the project may not be readily determined unless a system-wide
12 analysis is done. Lastly, some projects, such as decompartmentalization, may not make
13 additional water available.

14
15 The system-wide approach that requires using system-wide hydrologic tools, such as the South
16 Florida Water Management Model, also avoids the potential for double counting that may occur
17 if separate localized models are used. The system-wide approach will also make it easier to
18 correct or modify the identification of water needed for the natural system based on the results of
19 the adaptive assessment program. There are some exceptions to the system-wide approach. For
20 those projects that are not physically interconnected to the features of the C&SF Project system
21 (e.g. Southern Golden Gate Estates Project), identification of water to be reserved for the natural
22 system should be done only on project-level basis.

23
24 The actual project water supply performance may be estimated and defined as: 1) an explicit
25 volume related to a specific climatic condition, or 2) a range of volumes related to the expected
26 performance of a project over dry, average and wet conditions based on historical rainfall trends.

27
28 Typically these performance measures would be judged against a base case that reflects a
29 “without project condition”. Regional and project specific computer models should be
30 developed which contain the site characteristics of the facility such as available storage and
31 inflow and outflow structures. Next, a set of operational rules should be developed for
32 determining how, when and where water is discharged into and out of the facility. A set of
33 rainfall conditions should be applied which typically reflect the long-term historical rainfall data,
34 unique to the proposed spatial location of the proposed facility. Finally, the models are run, and
35 the output is post-processed to graphical formats consistent with the identified performance
36 measures and the results are reviewed. Several iterations of model simulations may be necessary
37 to optimize the performance of the facility taking into account flood protection, water supply,
38 water quality, and environmental considerations

39
40 It should be noted that the quantification and accounting of water needed to be reserved, as
41 reflected in the PIR, could vary from the actual project performance after project construction
42 and during the operation phase. During the PIR development phase, evaluations are done on a
43 predictive basis, based on assumptions that the projects recommended in all previously
44 authorized PIRs are in place. This allows comparison of the effect of a project combined with
45 the other authorized CERP projects to the conditions prior to CERP (i.e., pre-CERP baseline

1 condition). Operations for a project will be refined when construction and testing are complete
2 to optimize the operation of the C&SF project, plus those projects in place and operational.

3
4 As each CERP project is constructed and operational, regional water availability also will change
5 requiring concurrent revisions to the regional water availability rule. These revisions will not
6 only reflect the changes in the system-wide operations necessary to effectively implement each
7 constructed project, but will also form the basis for potential increases in available supply for
8 allocation to human uses.

9
10 **E. Protection of Additional Water for Natural Systems and Human Uses Made Available**
11 **by CERP**

12
13 WRDA 2000 requires that water for the natural system be identified for each project in the PIR
14 process and that a reservation or allocation of water be executed prior to the Project Cooperation
15 Agreement (PCA) being executed. The reservation will provide assurances that the water from
16 CERP projects directed to the natural system is set aside for environmental purposes and that
17 consumptive uses are adequately protected. The PIR will also include water supply performance
18 measures that will determine if existing consumptive use demands are met and if additional
19 water is made available for future consumptive uses.

20
21 In order to protect existing uses and to define the water available for future use, the reservation
22 rule must specify that the reserved water is not required to be delivered until a final operations
23 manual is provided to the District and the facility is fully operational. In addition, if the facility
24 results in a shifting of sources for existing uses, the rule should include conditions that the source
25 shift will occur only after the project is constructed and operating and a final operations manual
26 is provided to the District.

27
28 Since the PIR is a preliminary design document which is followed by detailed designs,
29 construction, and final operating manuals, there is a high probability that the ultimate
30 performance of the facility in question may change. This change may affect the amount of water
31 initially reserved by rule for the natural system. The final performance of the facility may also
32 substantially or minimally affect the amount of water available for consumptive users as
33 estimated by the PIR. Likewise, RECOVER may identify, through time, additional facilities or
34 operational changes that will fine tune the natural system benefits of a particular project which
35 may require revisions to existing water reservation rules. Therefore, the reservation should be
36 conditioned upon reevaluating the performance of the facility once constructed and operational.

37
38 Based on this information in the PIR, the reservation rule should include the following as an
39 example:

- 40
41 1. **The original source of reserved water** (e.g. IRL storage reservoir);
42
43 2. **The conveyance route of the reserved water** (e.g. IRL storage reservoir to C-44 connector
44 canal, to C-44, to C-44 STA, to Lake Okeechobee surface water, to Floridan Aquifer via
45 ASR, to Lake Okeechobee surface water via ASR, to Miami canal via S-3, to Water
46 Conservation Area 3 via S-8);

- 1 3. **The primary environmental benefit of the reserved water**, (e.g. reduced inflow to Indian
2 River Lagoon and water conservation area 3 hydropattern improvement); and
3
- 4 4. **Whether the additional water made from the project and its operational protocol shifts**
5 **sources for existing uses** (e.g. the St. Lucie Agricultural Area current supply source is C-23
6 Canal with an allocation of X-AF; IRL reservoir supplies Y-AF under one-in-ten year
7 conditions; shift agricultural users water source from C-23 to IRL reservoir once project is
8 completed, tested and operational).
9

10 System-wide operations may also be modified as a new PIR is designed and implemented.
11 During the design of the project, operations of the regional system should be included in the
12 analysis and necessary changes should be documented. After the project is constructed and
13 operational, and concurrent with the development of the final operating manual, revisions to the
14 existing system wide operating manual and regional water availability rule should be made to
15 reflect the addition of the new CERP project. The process for the integration of state and federal
16 protection of natural system water is shown on Figure 5.
17

18 Not only will the water available for future uses be identified as part of the PIR process, but also
19 potential shortfalls in future demands will be identified and planned for as part of the five year
20 updates of the *Lower East Coast Regional Water Supply Plan*. Changes in the projected water
21 availability based on actual project performance, construction schedule adjustments, funding and
22 institutional issues will require an ongoing strategy of periodic regional system-wide review to
23 insure that both future water use demands and environmental goals are met. If a shortfall is
24 projected for future consumptive uses, then periodic updates of the regional water supply plans
25 under state law will identify the necessity of additional water resource development projects or
26 water supply development projects, including conservation measures to make up for the shortfall.
27
28

29 **VI. Relationship of Quantification of Water to be Reserved and Operating** 30 **Manuals**

31
32 The optimization of the next added increment modeling will serve as the basis for not only
33 quantifying the water to be reserved, it will also be the model simulation from which the draft
34 project operating manual will be derived. This draft project operating manual will be a part of the
35 PIR, and will be consistent with the quantification of water to be reserved.
36

37 It is anticipated that the draft project operating manual will be refined through the detailed design
38 and construction phases of project implementation while continuing to meet the operation goals
39 as described in the PIR. Once a project is constructed and the operational/testing phase is nearing
40 completion, the project operating manual will be revised and finalized to reflect the operations of
41 the project that has been completed. While the operations of the completed project must reflect
42 the original intent of the project as described in the PIR, it must be recognized that the
43 relationship of the completed project with the operations of the rest of the C&SF project,
44 including other CERP projects, that have been completed may differ from the draft project
45 operating manual in the PIR. Consequently, it may be necessary to revise the reservation to
46 reflect the constructed project and the associated operations. This will occur in at least two

1 circumstances: 1) when the projects that are assumed to be built in the next added increment of
 2 the PIR analysis differs from what is actually constructed at the time a projects
 3 operational/testing phase is completed and 2) when a project performance differs from what was
 4 envisioned in the PIR.

5

6 **Timing and Relationship of Project Development, Quantification of Water,**
 7 **and Operating Manuals**

Project Development Process	Stage of Quantification of Water	Stage of Operating Manual Development
PIR	Identify Quantity to be reserved	Draft Operating Manual
Detailed Design	Refine Quantity to be reserved	Update Draft Operating Manual
Plans and Specifications	Initial Reservation (adopted)	
PCA		Construction Phase Operating Manual
Construction		Operational Testing Phase Operating Manual
Operational Testing		
Post Operational Testing	Refine Reservation (if required)	Final Operating Manual
Fully Operational		

8

1

2

3

4

5

6

7

8

9

10

FIGURES

Figure 1. Conceptual Relationship of Water Demands for Human Uses and Environmental Systems

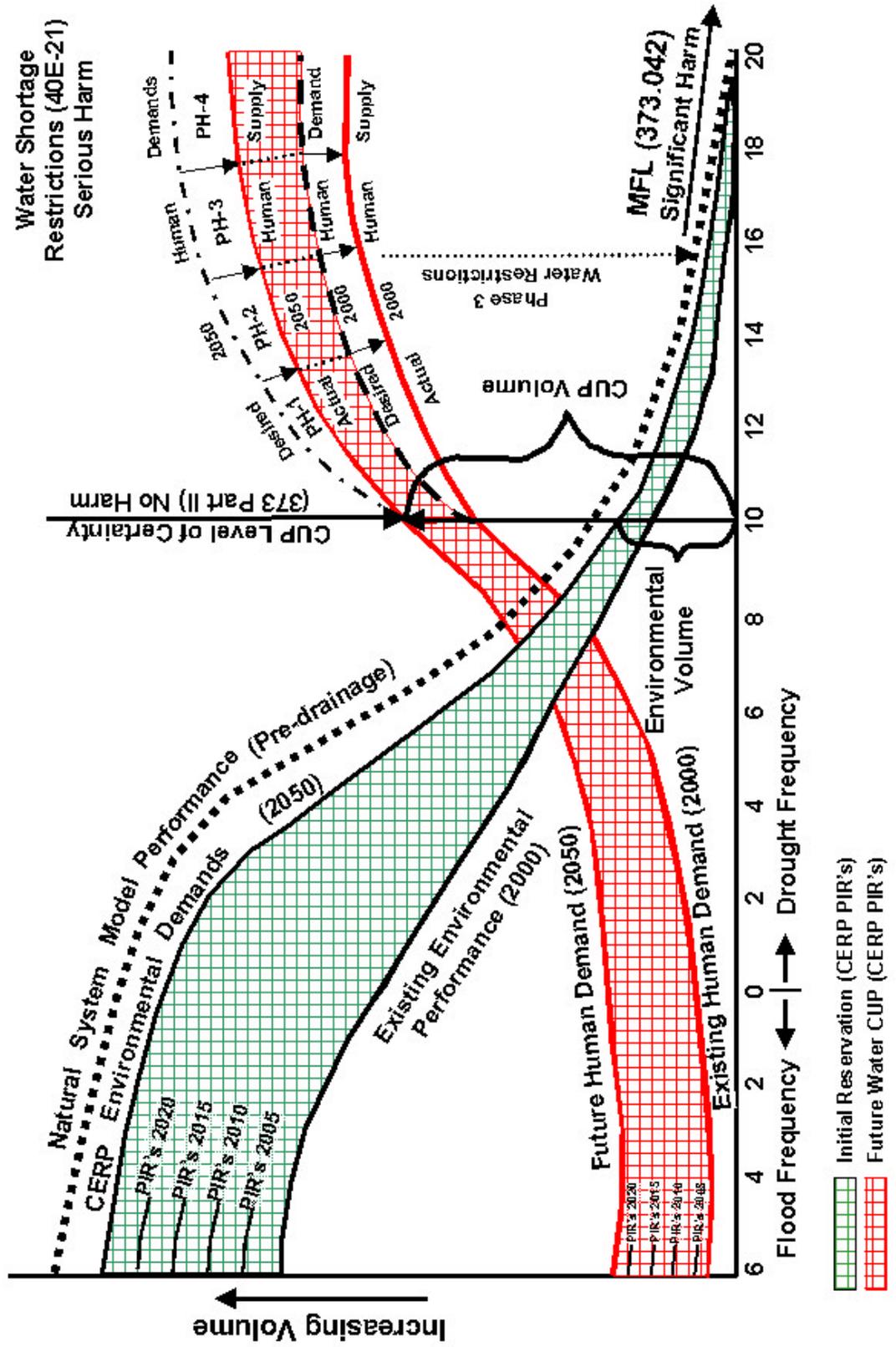


Figure 2. Relationship of Water Resource Protection Tools Under State Law

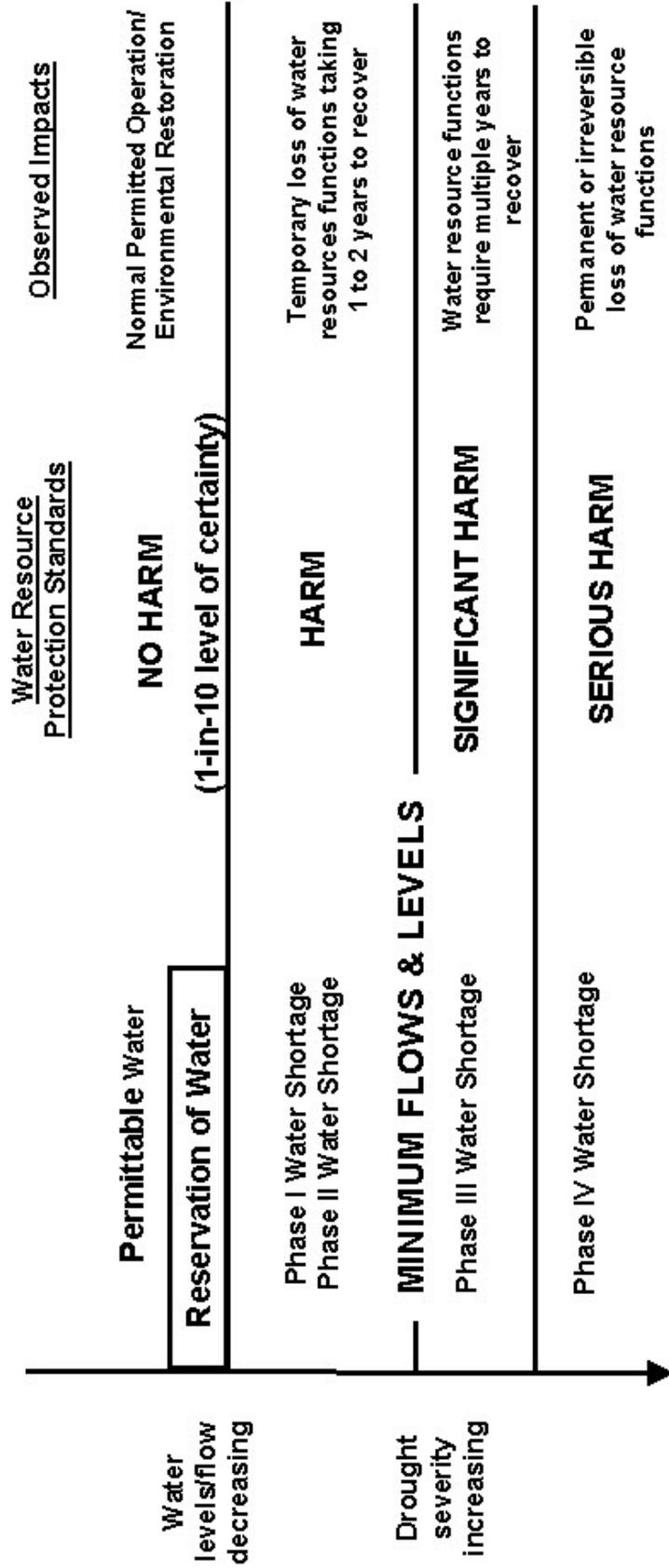


Figure 3. Proposed Existing Legal Source Basins

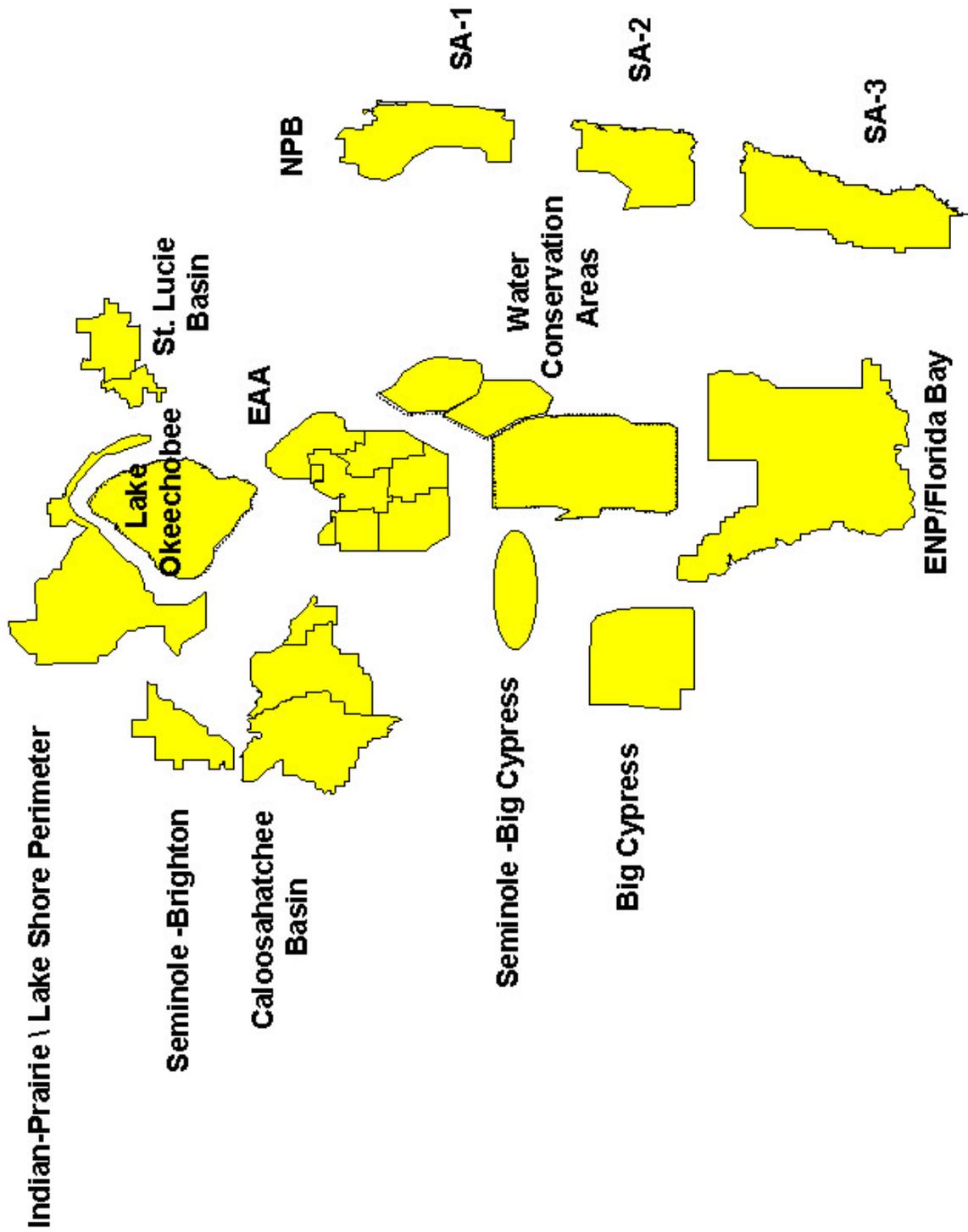


Figure 4. Conceptual Volume Probability Curve

Total Project Performance

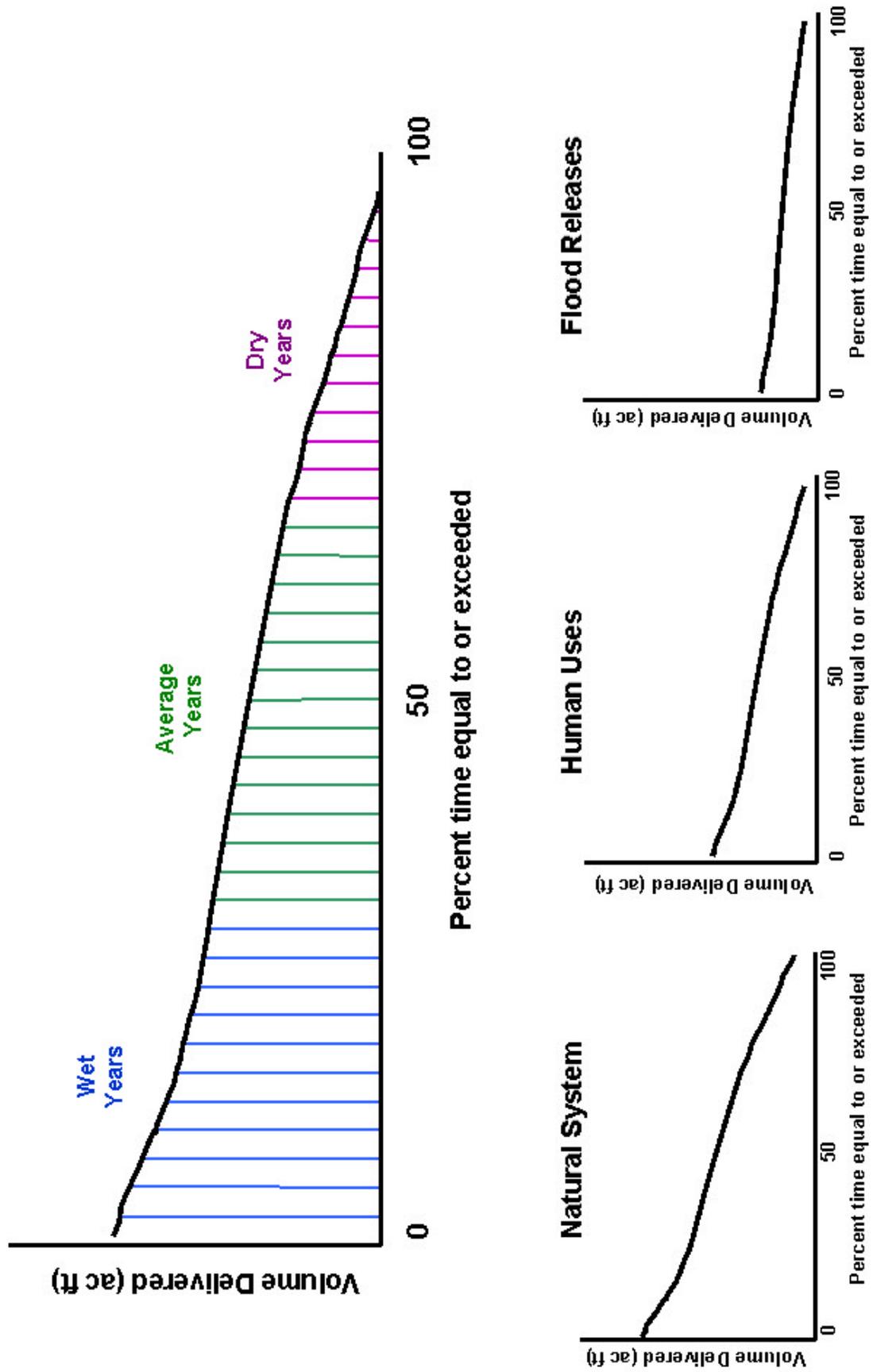
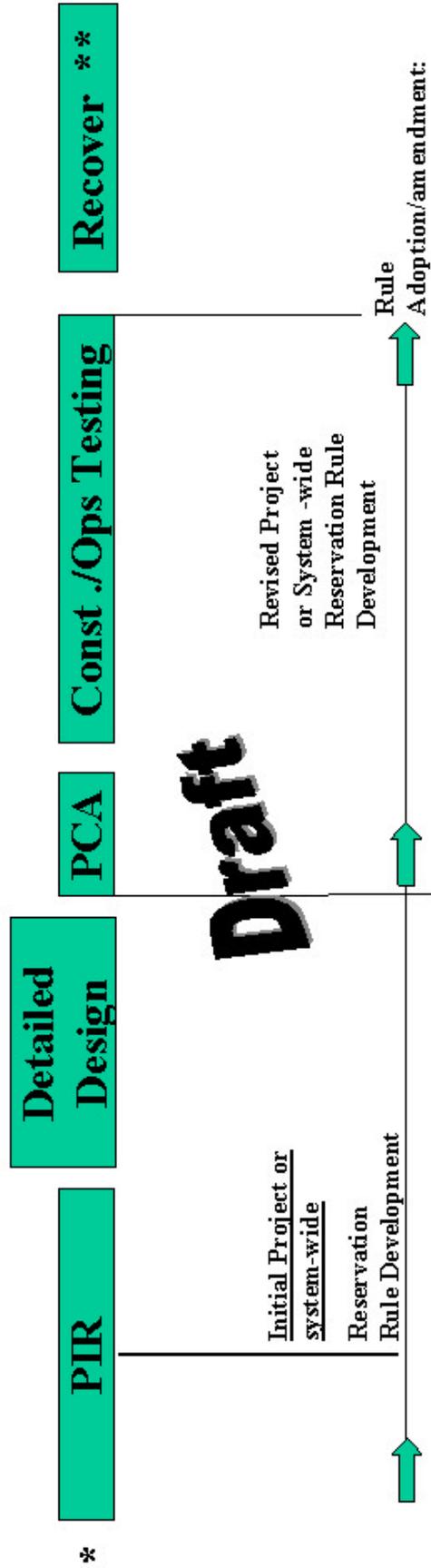


Figure 5. Integration of State/Federal Processes for Protection of Natural System Water



Identify water to be made available by project (natural system & human supplies)

Initial Reservation Rule Adoption :
Project Reservation (may have separate reservations for natural system.)

Revised project reservation rule based on project performance
Revised system-wide/regional reservation rule (based on project performance)
COE system-wide OPS manual update
Revised regional water availability rule water allocation criteria

* Need to adopt initial/baseline Regional Water Availability Rule

** Update RWSP's and CERP to ID and development of shortfalls in water availability for human and natural system demands

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APPENDIX

1 **Appendix A. Definitions**

2
3 **Baseline condition:** A baseline condition is a particular “snapshot” of the water management
4 system in time (e.g. December, 2000). Defining a baseline condition generally includes a
5 description of the water management components that may be built and operational for that point
6 in time, as well as the corresponding operating criteria, land use/land cover and natural and
7 human demands on the system. The performance of the baseline scenario is determined by
8 simulating a long period of historical climatic data (e.g. 36 years covering 1965-2000) and then
9 evaluating the performance measures for a variety of hydrologic conditions.

10
11 **Existing legal source:** The quantity of water available from all locations of which there was a
12 dependence as of December 2000, consistent with Federal and State law for; 1) urban and
13 agricultural existing legal users including those users exempt from permitting requirements, 2)
14 non-consumptive uses including regional surface and groundwater deliveries for resource
15 protection, 3) meeting the entitlement rights of the Seminole Tribe of Florida, 4) the Miccosukee
16 Tribe, 5) federal and state flow requirements for Everglades National Park and, 6) protection of
17 fish and wildlife including operations for maintaining minimum floor elevations in the Water
18 Conservation Areas.

19
20 **Hydrologic conditions:** Hydrologic conditions (e.g. Wet, Average, and Dry) will be based on
21 rainfall, flow, or water level depending on the particular application. The quantities defining the
22 hydrologic regimes will be based on the analysis of a time series of rainfall, flow, or water levels
23 for the entire period of simulation (36-year period covering 1965-2000 or a subset) for a
24 particular baseline/scenario.

25
26 **Master Implementation Sequencing Plan:** The document that describes the sequencing and
27 scheduling of the pilot projects, individual projects, and program-level activities that comprise
28 the Plan

29
30 **Natural system:** All land and water managed by the Federal government or the State within the
31 South Florida ecosystem and includes water conservation areas; sovereign submerged land;
32 Everglades National Park; Biscayne National Park; Big Cypress National Preserve; other Federal
33 or State (including a political subdivision of a State) land that is designed and managed for
34 conservation purposes; and any tribal land that is designated and managed for conservation
35 purposes, as approved by the tribe.

36
37 **Next added increment:** An analysis performed during a PIR to determine the incremental
38 environmental/water supply/flood control benefits of the project using the assumption that this
39 project adds the "next" increment to CERP and that no other projects would be built.

1 **Operating Manuals:** The set of documents for projects and the entire system used to guide the
2 operation of the projects of the Plan. Operating manuals include the System Operating Manual
3 and the Project Operating Manuals. Operating manuals may include water control plans,
4 regulation schedules, and operating criteria for project and/or system regulations as well as
5 additional provisions to collect, analyze, and disseminated basic data in order to operate projects
6 to ensure that the goals and purposes of the Plan are achieved.

7
8 **Performance measure:** An indicator and its target.

9
10 **Pre-CERP baseline:** The conditions in the south Florida ecosystem that existed on December
11 11, 2000, the date of enactment of section 601 of the Water Resources Development Act of 2000
12 (114 Stat. 2680), through modeling and includes such things as lined use, population, water
13 demand, and operations of the Central and Southern Florida Project. The pre-CERP baseline
14 may change as the models are revised or additional data is incorporated into the models.

15
16 **Probabilistic Approach:** The probabilistic approach is based on the concept that the future
17 performance of a particular project or a group of projects cannot be predicted with absolute
18 certainty. The primary reason for this is the inability to forecast future climatic conditions.
19 Assuming that the historical climate reflects the hydrologic regime that can be expected during
20 the next several decades, the simulation of the project(s) using historical data allows us to predict
21 the future performance probabilistically. In this approach a variety of statistical methods and
22 tools (e.g. Summary statistics, frequency distribution, duration curves) can be used to describe
23 the future performance.

24
25 **Project Cooperation Agreement (PCA):** The legal agreement between the Department of the
26 Army and a non-Federal sponsor that is executed prior to project construction. The Project
27 Cooperation Agreement describes the financial, legal, and other responsibilities for construction,
28 operation, maintenance, repair, rehabilitation, and replacement of a project.

29
30 **Project Delivery Team:** The inter-agency, interdisciplinary group led by the Corps of Engineers
31 and the non-Federal sponsor that develops the projects necessary to implement projects or
32 program-level activities.

33
34 **Project Implementation Report (PIR):** The report prepared by the Corps of Engineers and the
35 non-Federal sponsor pursuant to section 601(h)(4)(A) of the Water Resources Development Act
36 of 2000 (114 Stat. 2689) and described in Section 10.3 of the “Final Integrated Feasibility Report
37 and Programmatic Environmental Impact Statement”, dated April 1, 1999. The Project
38 Implementation Report is a new type of document containing additional project formulation and
39 evaluation as well as more detailed engineering and design. The Project Implementation Report
40 bridges the gap between the conceptual level of detail contained in the “Final Integrated
41 Feasibility Report and Programmatic Environmental Impact Statement” and the detailed design
42 necessary to proceed to construction.

43
44 **Project Operating Manual:** The manual that describes the operating criteria for a project or a
45 group of projects of the Plan. The Project Operating Manual is considered a supplement to the

1 System Operating Manual and presents more detailed information on the operation of a specific
2 project or group of projects.

3
4 **Project performance:** An agreed upon set of performance measures for which the proposed
5 project (PIR) meets or exceeds the performance indicated in the CERP.

6
7 **Regional Water Availability:** An analysis of the net inflows and outflows of the C&SF Project
8 system under a one in ten drought year condition. The analysis identifies the quantity, sources,
9 and destination of surface and groundwater supplies. It will be principally used to determine the
10 extent to which surface and groundwater resources may be available through time for urban and
11 agricultural uses.

12
13 **Reservation of water for the natural system:** The actions taken by the South Florida Water
14 Management District, the Florida Department of Environmental Protection, or any other state
15 agency or water management district which may be authorized by Florida law, pursuant to the
16 provisions of Chapter 373.232 of the Florida Statutes, or other applicable state law, to legally
17 reserve water from allocation for consumptive use for the protection of fish and wildlife.

18
19 **System Operating Manual:** The system-wide Operating Manual for the Plan that provides an
20 integrated framework for operating all of the projects of the Plan.

21
22 **System-wide reservation account:** The system-wide reservation account represents a system-
23 wide accounting of all water delivered to meet environmental targets for a particular
24 baseline/scenario. It is an aggregation of individual project reservation amounts with a careful
25 attention to avoid counting the same water more than once. Such an account will be derived
26 from the regional-scale modeling results including detailed water budgets, and individual project
27 reservation accounts.

28
29 **Target:** A measure of change by the indicator that is expected or desired during and following
30 the implementation of the Comprehensive Everglades Restoration Plan.

31
32 **Volume probability curve:** Volume probability curve plots estimate quantities of water
33 produced by a particular facility (usually expressed as ac-ft or million/billion gallons as a
34 function of the percentage of time the quantity is equaled or exceeded. It describes, in a
35 graphical form, the water quantities that may be expected from a particular project or a group of
36 projects for a range of hydrologic conditions.

37
38 **Water budget:** A complete accounting of the inflow to, outflow from, and storage systemwide,
39 in a new project facility or a group of new projects.

40
41 **Water made available:** The water generated from the implementation of the components of the
42 Plan. These components include storage reservoirs, aquifer storage and recovery facilities, storm
43 water treatment areas, water reuse facilities, and seepage management.

1 **Appendix B. Water Resources Development Act of 2000 -**
2 **Assurances Provisions**

3
4 **Section 601(h)- ASSURANCE OF PROJECT BENEFITS-**
5

6 (1) IN GENERAL- The overarching objective of the Plan is the restoration, preservation, and
7 protection of the South Florida Ecosystem while providing for other water-related needs of the
8 region, including water supply and flood protection. The Plan shall be implemented to ensure the
9 protection of water quality in, the reduction of the loss of fresh water from, the improvement of
10 the environment of the South Florida Ecosystem and to achieve and maintain the benefits to the
11 natural system and human environment described in the Plan, and required pursuant to this
12 section, for as long as the project is authorized.
13

14 (2) AGREEMENT-

15 (A) IN GENERAL- In order to ensure that water generated by the Plan will be made
16 available for the restoration of the natural system, no appropriations, except for any pilot
17 project described in subsection (b)(2)(B), shall be made for the construction of a project
18 contained in the Plan until the President and the Governor enter into a binding agreement
19 under which the State shall ensure, by regulation or other appropriate means, that water
20 made available by each project in the Plan shall not be permitted for a consumptive use or
21 otherwise made unavailable by the State until such time as sufficient reservations of water
22 for the restoration of the natural system are made under State law in accordance with the
23 project implementation report for that project and consistent with the Plan.
24

25 (B) ENFORCEMENT-

26
27 (i) IN GENERAL- Any person or entity that is aggrieved by a failure of the United
28 States or any other Federal Government instrumentality or agency, or the Governor or
29 any other officer of a State instrumentality or agency, to comply with any provision of
30 the agreement entered into under subparagraph (A) may bring a civil action in United
31 States district court for an injunction directing the United States or any other Federal
32 Government instrumentality or agency or the Governor or any other officer of a State
33 instrumentality or agency, as the case may be, to comply with the agreement.
34

35 (ii) LIMITATIONS ON COMMENCEMENT OF CIVIL ACTION- No civil action
36 may be commenced under clause (i)--

37 (I) before the date that is 60 days after the Secretary and the Governor receive
38 written notice of a failure to comply with the agreement; or

39
40 (II) if the United States has commenced and is diligently prosecuting an
41 action in a court of the United States or a State to redress a failure to comply
42 with the agreement.
43

44 (C) TRUST RESPONSIBILITIES- In carrying out his responsibilities under this subsection
45 with respect to the restoration of the South Florida ecosystem, the Secretary of the

1 Interior shall fulfill his obligations to the Indian tribes in South Florida under the Indian
2 trust doctrine as well as other applicable legal obligations.

3
4 (3) PROGRAMMATIC REGULATIONS-

5
6 (A) ISSUANCE- Not later than 2 years after the date of enactment of this Act, the
7 Secretary shall, after notice and opportunity for public comment, with the concurrence
8 of the Governor and the Secretary of the Interior, and in consultation with the
9 Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the
10 Administrator of the Environmental Protection Agency, the Secretary of Commerce,
11 and other Federal, State, and local agencies, promulgate programmatic regulations to
12 ensure that the goals and purposes of the Plan are achieved.

13
14 (B) CONCURRENCY STATEMENT- The Secretary of the Interior and the Governor
15 shall, not later than 180 days from the end of the public comment period on proposed
16 programmatic regulations, provide the Secretary with a written statement of
17 concurrence or nonconcurrence. A failure to provide a written statement of concurrence
18 or nonconcurrence within such time frame will be deemed as meeting the concurrency
19 requirements of subparagraph (A)(i). A copy of any concurrency or nonconcurrency
20 statements shall be made a part of the administrative record and referenced in the
21 final programmatic regulations. Any nonconcurrency statement shall specifically
22 detail the reason or reasons for the nonconcurrence.

23
24 (C) CONTENT OF REGULATIONS-

25
26 (i) IN GENERAL- Programmatic regulations promulgated under this paragraph shall
27 establish a process--

28 (I) for the development of project implementation reports, project
29 cooperation agreements, and operating manuals that ensure that
30 the goals and objectives of the Plan are achieved;

31
32 (II) to ensure that new information resulting from changed or
33 unforeseen circumstances, new scientific or technical information
34 or information that is developed through the principles of
35 adaptive management contained in the Plan, or future authorized
36 changes to the Plan are integrated into the implementation of the
37 Plan; and

38
39 (III) to ensure the protection of the natural system
40 consistent with the goals and purposes of the Plan, including the
41 establishment of interim goals to provide a means by which the
42 restoration success of the Plan may be
43 evaluated throughout the implementation process.

44
45 (ii) LIMITATION ON APPLICABILITY OF PROGRAMMATIC REGULATIONS-
46 Programmatic regulations promulgated under this paragraph shall expressly prohibit the

1 requirement for concurrence by the Secretary of the Interior or the Governor on project
2 implementation reports, project cooperation agreements, operating manuals for
3 individual projects undertaken in the Plan, and any other documents relating to the
4 development, implementation, and management of individual features of the Plan,
5 unless such concurrence is provided for in other Federal or State laws.
6

7 (D) SCHEDULE AND TRANSITION RULE-

8
9 (i) IN GENERAL- All project implementation reports approved before the date of
10 promulgation of the programmatic regulations shall be consistent with the Plan.
11

12 (ii) PREAMBLE- The preamble of the programmatic regulations shall include a
13 statement concerning the consistency with the programmatic regulations of any project
14 implementation reports that were approved before the date of promulgation of the
15 regulations.
16

17 (E) REVIEW OF PROGRAMMATIC REGULATIONS- Whenever necessary to
18 attain Plan goals and purposes, but not less often than every 5 years, the Secretary, in
19 accordance with subparagraph (A), shall review the programmatic regulations
20 promulgated under this paragraph.
21
22

23 (4) PROJECT-SPECIFIC ASSURANCES-

24
25 (A) PROJECT IMPLEMENTATION REPORTS-

26
27 (i) IN GENERAL- The Secretary and the non-Federal sponsor shall develop project
28 implementation reports in accordance with section 10.3.1 of the Plan.
29

30 (ii) COORDINATION- In developing a project implementation report, the Secretary and
31 the non-Federal sponsor shall coordinate with appropriate Federal, State, tribal, and local
32 governments.
33

34 (iii) REQUIREMENTS- A project implementation report shall--

35
36 (I) be consistent with the Plan and the programmatic
37 regulations promulgated under paragraph (3);

38
39 (II) describe how each of the requirements stated in
40 paragraph (3)(B) is satisfied;

41
42 (III) comply with the National Environmental Policy Act of 1969
43 (42 U.S.C. 4321 et seq.);

44
45 (IV) identify the appropriate quantity, timing, and distribution
46 of water dedicated and managed for the natural system;

1
2 (V) identify the amount of water to be reserved or
3 allocated for the natural system necessary to implement,
4 under State law, subclauses (IV) and (VI);
5

6 (VI) comply with applicable water quality standards
7 and applicable water quality permitting requirements
8 under subsection (b)(2)(A)(ii);
9

10 (VII) be based on the best available science; and

11
12 (VIII) include an analysis concerning the cost-effectiveness
13 and engineering feasibility of the project.
14

15 (B) PROJECT COOPERATION AGREEMENTS-

16
17 (i) IN GENERAL- The Secretary and the non-Federal sponsor shall execute project
18 cooperation agreements in accordance with section 10 of the Plan.
19

20 (ii) CONDITION- The Secretary shall not execute a project cooperation agreement until
21 any reservation or allocation of water for the natural system identified in the project
22 implementation report is executed under State law.
23

24 (C) OPERATING MANUALS-

25
26 (i) IN GENERAL- The Secretary and the non-Federal sponsor shall develop and issue,
27 for each project or group of projects, an operating manual that is consistent with the
28 water reservation or allocation for the natural system described in the project
29 implementation report and the project cooperation agreement for the project or
30 group of projects.
31

32 (ii) MODIFICATIONS- Any significant modification by the Secretary and the non
33 Federal sponsor to an operating manual after the operating manual is issued shall only
34 be carried out subject to notice and opportunity for public comment.
35
36

37 (5) SAVINGS CLAUSE-

38
39 (A) NO ELIMINATION OR TRANSFER- Until a new source of water supply of
40 comparable quantity and quality as that available on the date of enactment of this Act is
41 available to replace the water to be lost as a result of implementation of the Plan, the
42 Secretary and the non-Federal sponsor shall not eliminate or transfer existing legal
43 sources of water, including those for--
44

45 (i) an agricultural or urban water supply;

- 1 (ii) allocation or entitlement to the Seminole Indian Tribe of Florida under section 7
- 2 of the Seminole Indian Land Claims Settlement Act of 1987 (25 U.S.C. 1772e);
- 3 (iii) the Miccosukee Tribe of Indians of Florida;
- 4 (iv) water supply for Everglades National Park; or
- 5 (v) water supply for fish and wildlife.

6

7 (B) MAINTENANCE OF FLOOD PROTECTION- Implementation of the Plan shall not

8 reduce levels of service for flood protection that are--

9

- 10 (i) in existence on the date of enactment of this Act; and
- 11
- 12 (ii) in accordance with applicable law.
- 13

14 (C) NO EFFECT ON TRIBAL COMPACT- Nothing in this section amends, alters,

15 prevents, or otherwise abrogates rights of the Seminole Indian Tribe of Florida under

16 the compact among the Seminole Tribe of Florida, the State, and the South Florida

17 Water Management District, defining the scope and use of water rights of the Seminole

18 Tribe of Florida, as codified by section 7 of the Seminole Indian Land Claims

19 of 1987 (25 U.S.C. 1772e)."

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Appendix C. Proposed Guiding Principles and Associated Issues

Overview

Objective:

- Overarching objective of the CERP under both State and federal law is restoration and preservation of the South Florida ecosystem – while providing for other water-related needs, including water supply and flood protection.

Laws:

- Implementation of the CERP must be consistent with state and federal law.
 - Federal

In general, Federal law requires the quantification and protection of existing legal sources of water and quantification and protection of water made available for natural systems by CERP implementation through water reservations under State law.

- State

In general, State law requires quantification of water made available by CERP projects, protection of existing legal users of water during CERP implementation, and reservation or allocation of water made available by CERP projects, pursuant to state law.

State law provides tools for protection of human and natural system water supplies through reservations of water to protect fish and wildlife, consumptive use permitting, water shortage management, minimum flows and levels, and regional water supply planning.

Proposed Implementation Steps:

- Specifically under these legal requirements, as a first step in CERP implementation, the SFWMD has initially proposed to:
 - 1) Define "existing legal sources";
 - 2) Quantify water currently available from the C&SF project for allocation to consumptive uses and other non-consumptive uses within urban/agricultural service areas (regional water availability); and
 - 3) Quantify water for protection of fish and wildlife for initial reservations of water.
- A baseline for implementing these requirements under State and Federal law is necessary to identify the timing, quantity and distribution of water from various sources under existing "pre-CERP conditions" within the South Florida ecosystem.

- It has been proposed that this quantification be undertaken through a "Pre-CERP baseline condition" model run. The assumptions in the model run first need to be identified. There are several differing views regarding the meaning and interpretation of law and associated policies upon which the model assumptions are based.

In order to identify the assumptions for the Pre-CERP Baseline Condition model run, the following general principles are proposed, along with issues that surround these principles. The purpose is to present them for public discussion and resolution. The process for resolving these issues will also include presentation of results of model runs of various scenarios that frame the issues being debated.

Proposed Guiding Principles and Issues regarding Pre-CERP Baseline Condition

General System-wide/Regional conditions:

- As a general principle, assumptions will be based on the conditions in the 1995 base run of the Lower East Coast Regional Water Supply Plan and the 1999 Restudy. Deviations or exceptions to this general principle will be explicitly identified.

Issue: How do the assumptions in these model runs differ from actual December 2000 conditions? See below.

Issue: How to integrate the Restudy update into baseline conditions?

Hydrologic conditions:

- As a general principle, rainfall/ET will be determined based on a period of record for the various hydrologic conditions from 1965 to 2000

Physical conditions/structure conditions:

- As a general principle the structures and projects that were in existence as of December 2000 will be accounted for.

Issue: There are certain projects that were not built as of December 2000, but were federally authorized as of that date

C-111 and other Mod Water projects

Issue: There are certain state required projects that were in construction or are required to be constructed in the near future, pursuant to state law; Should these projects be assumed in the model run; if these projects are to be assumed as constructed and operational, both operations and water demands must be assumed in the model.

STA 1 East; STA 3/4; Full ECP?

1 ***Operational conditions:***
2

- 3 • As a general principle, operations in place as of December 2000 will be assumed.
4

5 Issue: Certain operations are considered to be "experimental" or are under legal review
6 or development as of December 2000. How should these operations be treated?
7

8 Sparrow; ISOP vs. IOP vs. CSOP issue; FEMA
9 S9 litigation issues; experimental water deliveries
10 Flood protection issues in S. Dade
11

12 ***Supply/source conditions:***
13

- 14 • As a general principle, primary regional sources of available water include: 1) local rainfall
15 and surface water storage and runoff; 2) Biscayne aquifer and other groundwater; 3) Water
16 Conservation Area storage; and 4) Lake Okeechobee.
17
- 18 • As a general principle, sources should be identified for basins, including urban/agricultural
19 service areas and regional environmental areas.
20
- 21 • As a general principle, basins may have primary, secondary, and tertiary supply sources
22 based on hydrologic conditions and available storage.
23

24 ***Demand conditions:***
25

- 26 • As a general principle, urban and agricultural demands will be based on that amount of water
27 depended upon to meet reasonable needs in urban/agricultural service areas.
28

29 Issue: Permitted allocation vs. actual use?
30

31 Issue: Permitted acreage vs. 2000 acreage?
32

33 Issue: Dependence defined by level of certainty – beyond level of certainty demands
34 linked to water shortage implementation (cutbacks, etc.).
35

36 How to handle changes to SSM and water shortage rules outside of CERP?
37

38 Issue: Include demands for beneficial uses only.
39

40 Do not include tidal discharges?
41

42 Base demands on AFSIRS, not Blanney-Criddle?
43

- 44 • As a general principle, non-consumptive uses in urban/agricultural service areas will be
45 accounted for as demands and will include deliveries for prevention of saltwater intrusion,
46 wetland protection, aquifer recharge and other resource protection purposes.

- 1 • As a general principle, fish and wildlife demands will be based on historic operational
 2 deliveries under federal regulation schedules and other historic deliveries for beneficial uses
 3 by fish and wildlife within regional environmental areas, including water conservation areas.
 4
 5

6 **Existing (2000) Condition - Pre-CERP Baseline Assumptions**
 7

Feature	Assumption
<i>Regional Input Data</i>	
Climate	The climatic period of record is from 1965 to 2000.
Topography	Updated November 2001 using latest available information (in NGVD 29 datum). This update includes: <ul style="list-style-type: none"> • USGS High Accuracy Elevation data from helicopter surveys collected 1999-2000 for Everglades National Park and Water Conservation Area (WCA) 3 south of Alligator Alley • USGS Lidar data (May 1999) for WCA-3A north of Alligator Alley • Lindahl, Browning, Ferrari & Helstrom 1999 survey for Rotenberger Wildlife Management Area • Stormwater Treatment Area surveys from 1990s • Aerometric Corp. 1986 survey of the 8-1/2 square mile area • Includes estimate of Everglades Agricultural Area subsidence • Other data as in SFWMM v3.7. (Documented in November 2001 SFWMD memorandum from M. Hinton to K. Tarboton)
Sea Level	<ul style="list-style-type: none"> • Sea level data from six long-term USGS stations were used to generate a historic record to use as sea level boundary conditions for the 1965 to 2000 evaluation period.
Land Use	All land use has been updated using most recent FLUCCS data (1995), modified in the Lower East Coast urban areas using 2000 aerial photography (2x2 scale).
Natural Area Land Cover (Vegetation)	Vegetation classes and their spatial distribution in the natural areas comes from the following data: <ul style="list-style-type: none"> • Walsh 1995 aerial photography in Everglades National Park • Rutchey 1995 classification in WCA-3B, WCA-3A north of Alligator Alley and the Miami Canal, WCA-2A & 2B • Richardson 1990 data for Loxahatchee National Wildlife Refuge • FLUCCS 1995 for Big Cypress National Preserve, Holey Land & Rotenberger Wildlife Management Areas & WCA-3A south of Alligator Alley and the Miami Canal. (Documented in November 2001 SFWMD memorandum from J. Barnes to K. Tarboton)
<i>Lake Okeechobee Service Area</i>	
Indian Prairie	•
Lake Okeechobee	<ul style="list-style-type: none"> • Lake Okeechobee Regulation Schedule WSE according to WSE decision trees. • Lake Okeechobee Supply Side management policy for Lake Okeechobee Service

Feature	Assumption
	<p>Area water restriction cutbacks (reference stage 10.5').</p> <ul style="list-style-type: none"> • Emergency water supply and flood control backpumping to Lake Okeechobee from the Everglades Agricultural Area. • Kissimmee River inflows based on interim schedule for Kissimmee Chain of Lakes.
Caloosahatchee River Basin	<ul style="list-style-type: none"> •
St. Lucie Canal Basin	<ul style="list-style-type: none"> •
Seminole Brighton Reservation	<ul style="list-style-type: none"> • Brighton Seminole Reservation demands are the entitlement quantities as per Table 7, Agreement 41-21 (Nov 92). Supply-side management applies to this agreement
Seminole Big Cypress Reservation	<ul style="list-style-type: none"> • Big Cypress Seminole Reservation irrigation demands reflect the Seminole Compact (3,917 AF/mo; Oct 98). Supply-side management applies to the Compact.
Everglades Agricultural Area	<ul style="list-style-type: none"> •
Stormwater Treatment Areas	<ul style="list-style-type: none"> • Stormwater Treatment Areas 1W, 2, 5 & 6 operational; operation of Stormwater Treatment Areas assumes 6" minimum depth.
Holey Land Wildlife Management Area	<ul style="list-style-type: none"> • Holey Land Wildlife Management Area operated at 0.0 ft. dry season and 1.5 ft. wet season.
Rotenberger Wildlife Management Area	<ul style="list-style-type: none"> • Interim Operational Schedule (July 2001) for Rotenberger Wildlife Management Area (0.0 ft. dry season to 1.25 ft. wet season).
<i>Water Conservation Areas</i>	
Water Conservation Area 1 (Loxahatchee National Wildlife Preserve)	<ul style="list-style-type: none"> • C&SF Regulation Schedule. • No net outflow to maintain minimum stages in the LEC Service Area canals (salinity control), if canal levels are less than minimum operating criteria of 14 ft.
Water Conservation Area 2 A&B	<ul style="list-style-type: none"> • Current regulation schedule. • No net outflow to maintain minimum stages in the LEC Service Area canals (salinity control), if canal levels are less than minimum operating criteria of 10.5 ft.
Water Conservation	<ul style="list-style-type: none"> • Current regulation schedule. • No net outflow to maintain minimum stages in the LEC Service Area canals

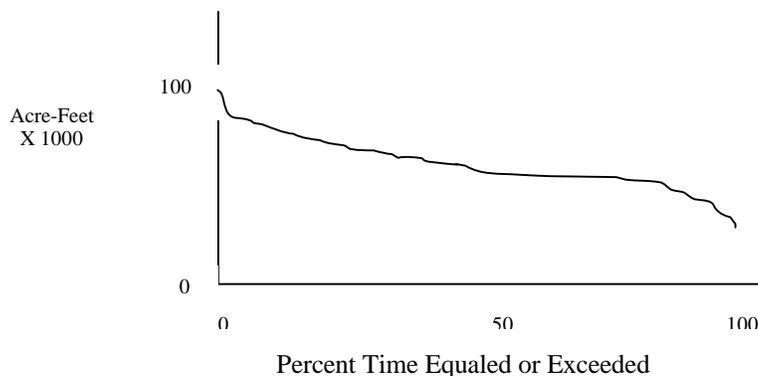
Feature	Assumption
Area 3 A&B	(salinity control), if canal levels are less than minimum operating criteria of 7.5 ft.
<i>Lower East Coast Service Areas</i>	
Public Water Supply and Irrigation	•
Seminole Hollywood Reservation	• Hollywood Seminole Reservation demands as set forth under VI.C of the Water Rights Compact.
Natural Areas	<ul style="list-style-type: none"> • Flows to the Loxahatchee River at xx cfs through S-46. • Lake Worth Lagoon... • Flows to Pond Apple Slough through S-13A at approximately xx acre feet per year.
Canal Operations	<ul style="list-style-type: none"> • C&SF system and operating rules in effect in 2000 including operations to meet control elevations in the primary coastal canals for the prevention of saltwater intrusion. • Existing secondary drainage/water supply system. • Broward secondary canal recharge network based on the Lower East Coast Regional Water Supply Plan.
<i>Western Basins and Big Cypress National Preserve</i>	
Western Basins	•
Big Cypress	•
<i>Everglades National Park and Florida Bay</i>	
	•
<i>Region-wide Water Management and Related Operations</i>	
	• The Existing Condition reflects the existing water shortage policies as reflected in South Florida Water Management District rule 40E-21. The impacts of declarations of water shortages on utility water use reflect assumptions contained in the Lower East Coast Regional Water Supply Plan for the 2010 base case.

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Appendix D. Guidance for Project Delivery Teams for Identifying the Amount of Water to be Reserved for the Natural System in the Project Implementation Report Process

A. Technical Process for Quantifying CERP Project Benefits

WRDA 2000 requires that the amount of water to be reserved for the natural system be identified in the PIR. This implies that a volume needs to be determined. Such volumes (water quantity) can be determined from water budget information using a hydrologic simulation model such as the South Florida Water Management Model. However, an average annual volume alone would not provide for the variability of water flows. Therefore, a probabilistic approach is proposed. Specifically, the water budget annual means for the simulation period can be turned into an annual volume probability curve at specific locations (cells or indicator regions) as shown below:



These curves should be generated at all appropriate points of interest in the system. For the Restudy, system-wide water budgets (using average annual values) were developed for a variety of conditions (Natural System Model, 1995 base case, 2050 base case, and the recommended plan) by summing the inputs and outputs throughout the system. This water budget was used to determine the total amount of water generated by the comprehensive plan as well as how much went to the natural system and how much to other uses. The set of volume probability curves generated for each PIR similarly can be used to determine how much water is being generated and which use sector is benefiting.

The volume probability curves should first be developed for the pre-CERP baseline condition (i.e. the conditions existing on December 11, 2000, the date of enactment of WRDA 2000). This is the baseline from which CERP will be measured against. Initially, this baseline will be established by assuming the historical rainfall conditions of 1965 through 2000. As additional rainfall data become available, the baseline condition will need to include these additional data.

For each PIR, volume probability curves should be developed by assuming that the project recommended in that PIR as well as all previously authorized projects (i.e. PIRs that have been approved) have been constructed and are operational. For evaluation purposes, this condition assumes that the project recommended in each PIR would be the next added increment to CERP

1 Each PIR represents a cumulative identification of both the water to be reserved for the natural
2 system and the water to be made available for other uses. In effect, what this procedure does is
3 to establish a system-wide “bank account” of the amount of water that needs to be reserved for
4 the natural system. Although the PIR (which is produced for individual projects) provides the
5 vehicle for the identification of water, the master accounting should be done on a system-wide
6 basis. Therefore, projects are not incremental, but the system-wide quantification of new water
7 developed in the current PIR will replace the quantification of new water from the previous
8 PIR’s.

9
10 The total amount of water made available by the projects should be computed by comparing the
11 quantities estimated from the volume probability curves generated by the projects to the pre-
12 CERP base line volume probability curves. This can be done at each location and summed for
13 the total system. The computation can likewise be done for the water that is going to the natural
14 system as a result of a project in order to identify the water that should be reserved for the natural
15 system for that project. A third computation should identify that portion of the total quantity of
16 water that is made available for other uses and may be allocated after the project is constructed
17 and operational.

18
19 It is recommended that the following information be modeled and incorporated into the PIR for
20 each facility to provide assurances that the project is designed and operated consistent with the
21 goals of CERP and consistent with the LEC Regional Water Supply Plan as follows:

- 22
23 1. An agreed upon set of performance measures related to flood protection, water supply and
24 environmental restoration goals, documenting the expected performance of the new facility
25 compared to the without condition (base case) and consistent with the performance targets
26 agreed to in the CERP.
27 2. A total volume duration curve for the specific project which is reflective of the full range of
28 rainfall conditions under which its performance was analyzed.
29 3. A volume duration curve for the specific project of water delivered to the environment.
30 4. A volume duration curve for the specific project of water delivered to other uses.
31 5. Volume duration curves for the regional system including the current project and all
32 previously approved PIRs identifying the total water, natural system and other uses of water
33 to date.
34 6. The estimated one in ten year drought volume made available to the natural system.
35 7. The estimated one in ten year drought volume (surface and groundwater) made available to
36 other uses.
37 8. An explicit set of operational rules for the facility.

38
39
40 **B. Project Implementation Report Formulation and Evaluation**

41
42 Formulation and evaluation for each project of the Comprehensive Everglades Restoration Plan
43 (CERP) will be conducted in a uniform manner according to the “Plan Formulation and
44 Evaluation Procedure” that will result in the development of a Project Implementation Report.
45 The process, for identifying the amount of water to be reserved for the natural system, will be
46 used following the formulation and identification of a selected project in the PIR process. The

1 results of this analysis will also be a part of the PIR. The water to be reserved will be determined
2 on a system-wide basis unless there is a specific environmental element within the boundary or
3 in the vicinity of a project, in which case a project-level reservation will also be made.

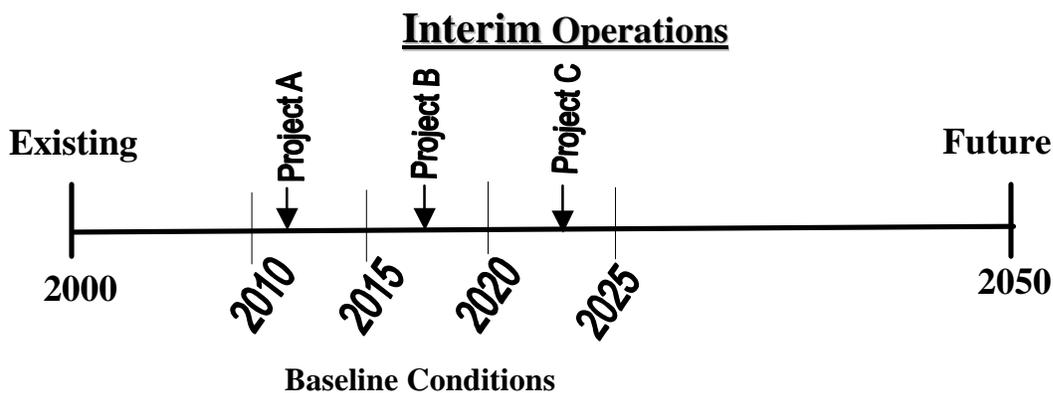
4
5 As described in the CERP Formulation and Evaluation Procedures, individual projects will be
6 formulated and the Selected Project will be identified in the context of the total CERP.
7 Formulation in most cases will be conducted on a system-wide basis. The future with project
8 will be a combination of projects that have been previously approved or authorized, projects that
9 are a part of the Comprehensive Plan that are yet to be refined in the PIR process, and the project
10 that the PIR is refining. This system-wide approach will be used to quantify the system-wide
11 benefits of the project as required in the Corps planning process and to assure that the overall
12 goals of the project continue to be met.

13
14 **C. Process for Identifying the Amount of Water to be Reserved**

15
16 The CERP Formulation and Evaluation Procedures describe a three step process for the
17 development of individual projects in the project implementation report process. After the
18 selected project as been identified on the basis of optimizing system-wide benefits when
19 applicable, an interim operations assessment will be conducted. The interim operations
20 assessment step of the formulation and evaluation process will be used to identify the amount of
21 water to be reserved. In this step of the formulation and evaluation process the Selected Project
22 will be analyzed in the context of the next added increment. To complete the analysis of the next
23 added increment, the selected project along with other projects previously authorized will be
24 compared against two separate model runs, the first will be the pre-CERP 2000 baseline and the
25 second will be other projects that have been previously authorized.

26
27 During next added increment analysis, the interim operations of the C&SF project, previously
28 authorized projects, plus the selected project will be optimized. The draft operating manual that
29 will be part of the PIR will be based on the design and operational assumptions derived from the
30 next added increment analysis.

31
32 The basis for determining the minimal acceptable performance for the next added increment will
33 be the system-wide performance as predicted in the five-year incremental simulations from
34 modeling the Master Implementation Sequencing Plan.



1 The analyses for the identification of the amount of water to be reserved will be conducted on a
2 project-level basis and on a system-wide basis.

3
4 Project-level quantification for reservations will be developed in cases where there is a quantity
5 of water that should be reserved within the boundaries or in the vicinity of where the project will
6 be implemented. In these situations, sub-regional models will be used to identify the amount of
7 water to be reserved. Examples of projects where project-level quantification may occur include
8 Indian River Lagoon Natural Storage and Treatment Areas, WCA 3A/3B Seepage Management,
9 Southern Golden Gate Estates, and Storm-water Treatment Areas for various projects.

10
11 System-wide quantification for reservations will be developed in cases where the affects of a
12 project can be detected outside of the vicinity of a project. Most CERP projects are expected to
13 have some system-wide affects. In these situations system-wide modeling tools, such as the
14 South Florida Water Management Model will be used to identify the amount of water to be
15 reserved.

16
17 **D. Modeling to Identify the Amount of Water to be Reserved Based on the**
18 **Next Added Increment**

- 19
20 1. Data sets to be simulated for both system-wide and project level reservations:
21 A. Pre-CERP 2000 Baseline
22 B. All authorized projects with operations optimized without the Selected Project.
23 C. Selected Project plus all other authorized projects with operations optimized. (It is
24 anticipated that this is the modeling information that would provide the basis for the
25 identification of the amount of water to be reserved.)
26
27 2. Modeling Products:
28 A. Project -Level- Derive volume probability curves for the project site and vicinity for runs
29 A and B and C Compare with the appropriate Performance Measures and Targets.
30 Compute Volume-Probability curves for:
31 1. dry season (Nov-May)
32 2. wet season (June-October)
33 3. Water Year (November-October)
34 B. System-wide- Derive volume probability curves for each receiving environmental region
35 for both runs A and B and C. Compare with appropriate Performance Measures and
36 Targets.
37 Compute Volume-Probability curves for:
38 1. dry season (Nov-May)
39 2. wet season (June-October)
40 3. Water Year (November-October)

41
42 Environmental Regions: St. Lucie Estuary, Caloosahatchee Estuary, Lake Okeechobee,
43 WCA-1 (Loxahatchee National Wildlife Refuge), WCA-2A/2B, WCA-3A/3B, Everglades
44 National Park, Florida Bay, Loxahatchee Slough, Lake Worth Lagoon, Biscayne Bay, and
45 Big Cypress